GOVERNMENT OF MYSORE

LEGISLATIVE DEPARTMENT

THE MYSORE CODE

IN FOUR VOLUMES

VOLUME II

UNREPEALED MYSORE ACTS

1921-1944

1955

Price : Rs. 8 – 8 – 0

PREFACE

THIS edition of the Mysore Code contains all unrepealed Mysore enactments from the year 1850 till the end of December 1954. It consists of four volumes. Volume I contains the Acts from 1850 to 1920; Volume II the Acts from 1921 to 1944; Volume III the Acts from 1945 to 1950 and Volume IV the Acts from 1951 to 1954.

2. The Acts included in this edition are printed as modified up to the end of December 1954. The modifications made by the Mysore Adaptation of Laws Order, 1953, issued under section 54 of the Andhra State Act, 1953 (Central Act 30 of 1953) have also been carried out.

3. This edition is issued in the style of a loose leaf binder in order to make it easier to replace the corrected pages and keep the copy up-to-date. The pages of each volume are numbered separately. Whenever changes are made hereafter by any repealing or amending enactment, replacement pages will be issued embodying such changes for insertion at the appropriate places in the four volumes.

4. The enactments which are in force in Bellary District by virtue of section 53 of the Andhra State Act, 1953, have not been included in this edition. Amending Acts which make textual amendments to the principal Acts have also been omitted except those which amend Central Acts.

5. The enactments have been printed in chronological order. A chronological table is prefixed to each volume showing the short titles of the enactments contained therein and the manner in which each enactment has been affected by later legislation. An alphabetical index of Acts included in the volume is annexed at the end of each volume.

M. SADASIVAYYA,

BANGALORE,
Dated 1st February 1955.

Additional Secretary to Government for Revision of State Laws.

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THE MYSORE CODE

VOLUME II

UNREPEALED MYSORE ACTS—(*contd.*)

THE MYSORE PREVENTION OF ADULTERATION ACT, 1921

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MYSORE ACT No. IX OF 1921.

THE MYSORE PREVENTION OF ADULTERATION ACT, 1921.

(*As amended by Acts IV of* 1929, *IV of* 1930, *XII of* 1935 *and XXVIII of* 1951.)

(*Received the assent of His Highness the Maharaja on the Twenty-fourth day of December 1921.*)

Preamble.

WHEREAS it is expedient, in the interests of the public health, to prevent the adulteration of food; His Highness the Maharaja is pleased to enact as follows:—

Short title and extent.

1. (1) This Act may be called the Mysore Prevention of Adulteration Act, 1921.

(2) This section extends to the [1][whole of the State of Mysore except Bellary District]; the rest of the Act shall extend only to such local areas as the Government may by notification in the Official Gazette direct, and in respect either of all food or such as the Government may specify in the notification; and, if the Government so direct, only for the duration of any market, fair or festival or other large assembly of people:

Provided that such notification shall be made only after the local authority or authorities concerned have had an opportunity of expressing an opinion as to the necessity for such extension.

Interpretation clause.

2. In this Act unless there is something repugnant in the subject or context:

'food' includes every article (other than drugs or water) used by man for food or drink and all material used or admixed in the composition or preparation of such article and shall also include flavouring matter and condiments;

[2]["milk" means the normal clean secretion drawn from the udder of a healthy cow or buffalo.

"cream" means, that portion of milk rich in milk-fat which has risen to the surface of milk on standing and has been removed or which has been separated from milk by centrifugal force;]

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1. See the Mysore Adaptation of Laws Order, 1953.
2. Inserted by Act IV of 1930.

'butter' and 'cheese' mean respectively butter and cheese made exclusively from milk or cream or both, with or without the addition of salt or other innocuous preservative, or of innocuous colouring matter;

'ghee' means ghee prepared exclusively from butter made from cow's or buffalo's milk or cream or both;

[1]['vegetable oils' include groundnut oil, gingelly oil, hutchellu oil, coconut oil and any other oil notified as such by the State Government in the *Mysore Gazette*;]

'prescribed' means prescribed by rules made under this Act;

'public analyst' means any person appointed by or with the approval of the Government to exercise the powers of a public analyst under this Act;

'local executive officer' means, in any municipality, the President or Chairman of the Municipal Council [2] [or the Municipal Commissioner] and in or for [3] other local areas, the President of the District Board, or if there is no District Board, such public servant as may be designated by the Government for the exercise of the functions of a local executive officer under this Act.

Delegation of powers to local executive officers.

3. (1) The local executive officer may delegate his powers and duties under this Act to such persons and in such manner as may be prescribed.

(2) Every person to whom powers have been delegated under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Appointment of analysts.

4. (1) The local authority having control over any local area to which any provisions of this Act may be extended may, subject to the approval of Government, appoint a public analyst for such area.

(2) When no public analyst has been appointed under sub-section (1), the Government may appoint one for any one or more areas to which they have extended the provisions of this Act, and if local authorities have been constituted for such areas, may require such authorities to defray the whole or in part and in such proportions as the Government may determine, the expenses of and connected with the appointment of the analyst and of executing this Act.

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1. Inserted by Act XXVIII of 1951.
2. Inserted by Act IV of 1929.
3. Certain words were omitted by Act IV of 1929.

(3) For the enforcement of a requisition made under sub-section (2) the Government shall have all such powers of control over every local authority as are given to them in respect of any similar matter by the Act under which such local authority is established.

Offences and exceptions.

5. (1) Every person who

(*a*) sells any food which is not of the nature, substance or quality of the article demanded by the purchaser; or

(*b*) [1][manufactures for sale, stores for sale or offers for sale] or hawks about or sells any food which is not of the nature, substance or quality which it purports, or is represented to be; or

(*c*) abstracts from any food any part of it so as to affect injuriously the nature, substance or quality thereof with intent that it should be sold in its altered state without notice of the alteration, or sells any article so altered without making disclosure of the alteration; or

(*d*) [2][offers for sale or hawks about or sells milk, cream, butter, ghee, cheese, [3][any vegetable oil] or any food which is not up to the standard of purity prescribed by the Government;

shall be punished for the first offence [4][with fine which may extend to five hundred rupees] and for every subsequent offence [4][with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.]

Provided that in the following cases no offence under this section shall be deemed to have been committed:—

(i) where any innocuous material has been used or admixed in the composition or preparation of the food to render the same fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or to conceal or debase the quality thereof; or

(ii) where in the process of production, collection, preparation or conveyance of the food some extraneous material has unavoidably been admixed therewith; or

(iii) where the food is the subject of a patent in force and is supplied in the state required by the specification thereof.

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1. Substituted by Act IV of 1930.
2. Sub-section (*d*) of section 5 (1) substituted by Act IV of 1930.
3. Inserted by Act XXVIII of 1951.
4. Substituted by Act XXVIII of 1951.

(2) In every prosecution for an offence against this section, the court may presume that any food found in the possession of a person, [1][who is in the habit of manufacturing or storing like articles for sale, has been manufactured or stored by such person for sale.]

Prohibition of mixing of food with injurious ingredients or o selling the same.

[2]**5-A.** Any person who mixes, colours, stains or powders or orders or permits any other person to mix, colour, stain or powder any article of food with any matter or ingredient so as to render the article injurious to health with intent that the same may be sold in that state or sells or offers or exposes for sale any such article so mixed, coloured, stained or powdered shall be punished for the first offence [3][with a fine which may extend to two hundred and fifty rupees] and for every subsequent offence [3][with imprisonment for a term which may extend to three months or with a fine which may extend to one thousand rupees or with both.]

Exemption in case of proof of absence of knowledge.

Provided that no person shall be liable to be convicted in respect of the sale of any article of food if he proves, to the satisfaction of the court before whom he is charged, that he did not know of the article of food being so mixed, coloured, stained or powdered as aforesaid and that he could not, with reasonable diligence, have obtained such knowledge.

Presumptions to be made and pleas to be disallowed or allowed.

6. (1) In every prosecution for an offence against the last preceding section, it shall be no defence to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having bought only for analysis was not prejudiced by the sale.

Provided that the vendor shall not be deemed to have committed an offence under section 5, if he proves that the food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty to the effect that it was of such nature, substance and quality, that he had no reason to believe at the time when he sold the same that the food was not of such nature, substance or quality, and that he sold it in the same state as that in which he purchased it.

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1. Substituted by Act IV of 1930.
2. Section 5-A added by Act XII of 1935.
3. Substituted by Act XXVIII of 1951.

(2) Where an employer is charged with an offence under this Act, he shall be entitled on application duly made by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for the hearing, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he used due diligence to enforce the execution of this Act and that the said other person committed the offence without his knowledge, consent or connivance, the said other person shall be convicted and the employer shall be acquitted.

Powers of local executive officers for purposes of inspection.

7. (1) The local executive officer may without notice enter any place where articles of food are being manufactured or exposed for sale at any time by day or night when the exposure for sale or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.

(2) No claim shall lie against any local authority or any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for effecting an entry into any place under this section.

(3) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any food was not kept, exposed, hawked about, manufactured, prepared, stored, packed, or cleansed for sale, or was not intended for human food, the burden of proof shall lie on the party so alleging.

Penalty for preventing inspection.

8. Every person who shall in any manner whatsoever prevent the local executive officer or person duly authorised by him exercising his powers under the last preceding section, shall be punished, where this act does not amount to an offence under the Indian Penal Code, with a fine which may extend to fifty rupees.

Power of local executive officer to seize adulterated food, etc.

9. If any article intended for food appears to the local executive officer to be adulterated or other than what it purports or is represented to be, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to violate any rule made under section 20, he may seize or carry away or secure such article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

Penalty for removing or interfering with articles seized.

10. Every person who shall unlawfully remove or in any way interfere with an article secured under the last preceding section shall be punished with fine which may extend to five hundred rupees.

Sample of articles seized to be sent to the public analyst.

11. When any article of food seized under section 9 appears to the local executive officer to be adulterated or other than what it purports or is represented to be he shall forthwith send a sample of such article to the public analyst.

Production of articles, etc., seized before magistrate and powers of magistrate to deal with them.

12. (1) Articles of food or samples thereof, utensils or vessels seized under section 9, shall as soon as possible, be produced before a Magistrate [1][of the first or second class or a Bench of Magistrates specially empowered in this behalf by the Government.]

Provided that where a sample of an article has been sent to the public analyst the article or sample thereof may be produced before the Magistrate after receipt of the public analyst's certificate.

(2) Whether or not complaint is laid before the Magistrate of any offence under the Indian Penal Code or under this Act, if it appears to the magistrate on taking such evidence as he thinks necessary that any such article is adulterated or other than what it purports or is represented to be, or any such utensil or vessel is of such kind or in such state as is described in section 9 he may order the same

(*a*) to be forfeited to the local authority, or

(*b*) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for the manufacture or preparation of or for containing any such article as aforesaid.

Purchaser may have food analysed.

13. (1) Any purchaser of any article of food shall be entitled, if a public analyst has been appointed for the area within which such article is purchased, on payment of such fees as may be prescribed by the authority appointing the analyst, to have such article analysed by such public analyst and to receive from him a certificate of the result of his analysis.

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1. Added by Act IV of 1929.

(2) Before submitting such article to be analysed as aforesaid the purchaser shall notify to the seller his intention to have it so analysed; and the public analyst on receiving such article for analysis shall divide it into three parts, of which one is to be analysed, another to be retained by him in order to be returned with his certificate and the third to be delivered on demand to the seller; provided that each part other than the part analysed, shall be marked and sealed or fastened up in such manner as its nature permits.

Power of local executive officer to purchase samples for analysis.

14. (1) The local executive officer may purchase a sample of any article of food from any person exposing such article for sale or from any person who is in the course of delivering or preparing to deliver it to a purchaser or consignee, and may submit it to be analysed by the public analyst appointed for the area within which such sample has been procured.

(2) Every such person who refuses to sell such sample to the local executive officer or any person duly authorized by him at the price at which he usually sells the article shall be punished with fine which may extend to one hundred rupees.

Procedure when article is purchased for analysis.

15 (1) When the local executive officer or any other person purchases a sample of food with the intention of submitting it to be analysed by the public analyst, he shall notify to the person from whom he has purchased the article his intention to have it analysed and shall divide it into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature permits and shall deliver one of the said parts to the seller and retain another of the parts for production in case proceedings are taken and submit the third part, if he deems it right to have the article analysed, to the public analyst.

(2) If the seller declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his certificate, to be delivered to the purchaser or to the local executive officer who shall retain it for production in case proceedings are taken.

Public analyst's certificate.

16. (1) Every public analyst to whom a sample has been submitted under this Act shall deliver to the person

so submitting it a certificate in the form prescribed in the schedule to this Act, or to the like effect, specifying the result of his analysis.

(2) Any document purporting to be such certificate signed by a public analyst may be used as evidence of the facts stated therein in any proceedings under this Act or under sections 272 to 276 of the Indian Penal Code.

Provided that any court before which a case under this Act may be pending, whether exercising original, appellate or revisional jurisdction may in its discretion, at the request either of the accused or of the complainant, cause, any article of food to be sent for analysis to the Chemical Examiner to Government or to any public analyst designated for the purpose by Government, who shall thereupon analyse the same and report the result of such analysis to the said court; and the expense of such analysis shall be paid by the accused or the complainant, as the court may by order direct.

Jurisdiction of magistrates.

[1] [**17.** All offences under this Act shall be tried by a Magistrate of the first or second class or by a Bench of Magistrates specially empowered in this behalf by the Government.]

Institution of proceedings in courts.

18. No prosecution under this Act shall be instituted except on the complaint of the purchaser or with the consent in writing of the local executive officer.

No proceedings to be instituted more than three months after the offence.

19. No prosecution under this Act shall be commenced after the expiry of three months after the commission of the offence.

Power of Government to make rules.

20. Government may, after previous publication, make rules consistent with this Act for the whole or any part of the area to which this Act may have been extended—

(*a*) prescribing the classes or qualifications of persons to whom and the conditions on which the local executive officer may under section 3 delegate his powers;

(*b*) determining the limits within which the local executive officer may exercise his powers whether such limits are within or without the local area in respect of which he holds any public office;

(*c*) prescribing in the interests of the public health the state in which utensils and vessels used for manufacturing, preparing or containing any food intended for sale shall

1. Substituted by Act IV of 1929.

be kept, and prohibiting the use of utensils and vessels made in whole or in part, of materials likely to injure such food ;

(*d*) prescribing the manner in which notice of any addition, admixture or deficiency shall be given to the purchaser of any article of food ;

(*e*) prescribing standards of purity for milk, cream, butter [1](ghee, cheese, [2][any vegetable oil] and any food,) and determining what deficiency in any of the normal constituents of these articles or what addition of any extraneous matter or proportion of water in any of the same or any preparation of the same shall for the purposes of this Act raise a presumption until the contrary is proved that the milk, cream, butter [1](ghee, cheese, [2][any vegetable oil] or any food) is not genuine, or is injurious to health ;

[3][(*f*) prohibiting or regulating in the interest of public health—

(i) the addition of water or other diluent or adulterant to any food ;

(ii) the abstraction of any ingredient from any food ; and

(iii) the sale of any food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated ;

(*g*) providing for the manner in which any receptacle containing dried, condensed, skimmed or separated milk is to be labelled or marked ;

(*h*) authorising the person taking samples of any food for the purpose of analysis under this Act to add preservatives to such sample for the purpose of maintaining it in a suitable condition for analysis and regulating the nature of such preservatives and the method of adding them ;]

And providing for fines not exceeding one hundred rupees in the case of a first offence and five hundred rupees for every subsequent offence by way of penalty for breach of rules made [1][under clauses (*c*), (*d*), (*f*) and (*g*).]

Power of local authorities to make bye-laws.

21. Every local authority exercising control over any local area to which this Act has been extended may, under the provisions respecting the making of bye-laws of the Act under which such local authority is established, make

1. Substituted by Act IV of 1930.
2. Inserted by Act XXVIII of 1951.
3. Inserted by Act IV of 1930.

bye-laws not inconsistent with this Act or rules made under the last preceding section for all the purposes of this Act and in particular, without prejudice to the generality of the power hereby given, for the prevention of the manufacture or preparation for sale, the exposure for sale, or hawking about, or the sale of articles of food, which are adulterated or other than what they purport or are represented to be and the inspection and the regulation of places in which such articles are kept, stored, packed, cleansed, manufactured, prepared or exposed for sale, hawked about or sold.

22. The provisions of sections 2 to 21 of this Act shall be read as supplemental to the Act under which the local authority concerned is constituted.

SCHEDULE.

Form of Certificate.

To*

I, the undersigned, public analyst for the , do hereby certify that I received on the day of 19 from † a sample of for analysis (which then weighed ‡) and have analysed the same and declare the result of my analysis to be as follows :—

I am of opinion that the same is a sample of genuine or

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under :—

§ Observations.

Signed this day of 19

A.B.

at

In the case of a certificate regarding milk, butter, ghee or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

*Here insert the name of the person submitting the article for analysis.

†Here insert the name of the person delivering the sample. If the sample is received by post or by railway, entry should be made accordingly.

‡When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

§Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

MYSORE ACT No. VI OF 1922.

THE IDENTIFICATION OF PRISONERS' ACT, 1922.

An Act to authorise the taking of Measurements and Photographs of Convicts and others.

(Received the assent of His Highness the Maharaja on the Twenty-sixth day of December 1922.)

WHEREAS it is expedient to authorise the taking of measurements and photographs of convicts and others, His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. (i) This Act may be called the Identification of Prisoners' Act, 1922 ;

(2) It extends to the [1][whole of the State of Mysore except Bellary District] ; and

(3) It shall come into force at once.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,

(*a*) " Measurements " include finger impressions and foot-print impressions ;

(*b*) " Police Officer " means an officer in charge of a police station, a police officer making an investigation under Chapter XIV of the Code of Criminal Procedure, 1904, or any other police officer not below the rank of a sub-inspector, and

(*c*) " prescribed " means prescribed by rules made under this Act.

Taking of measurements, etc., of convicted persons.

3. Every person who has been

(*a*) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or

(*b*) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1904,

shall, if so required allow his measurements and photograph to be taken by a police officer in the prescribed manner.

1. See the Mysore Adaptation of Laws Order, 1953.

Taking of measurements, etc., of non-convicted persons.

4. Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

Power of Magistrate to order a person to be measured or photographed.

5. If a magistrate is satisfied that, for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1904, it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer :

Provided that no order shall be made directing any person to be photographed except by a magistrate of the first class.

Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

Resistance to the taking of measurements, etc.

6. (1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(2) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code.

Destruction of photographs and records of measurements, etc., on acquittal.

7. Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act, is released without trial or discharged or acquitted by any court, all measurements and all photographs (both negatives and copies) so taken shall, unless the court or (in a case where such person is released without trial) the District Magistrate or the Assistant Commissioner in charge of the Sub-Division for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

Power to make rules.

8. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for :—

(*a*) restrictions on the taking of photographs of persons under section 5 ;

(*b*) the places at which measurements and photographs may be taken ;

(*c*) the nature of the measurements that may be taken ;

(*d*) the method in which any class or classes of measurements shall be taken ;

(*e*) the dress to be worn by a person when being photographed under section 3 ; and

(*f*) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

Bar of suits.

9. No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.

MYSORE ACT No. VII OF 1923.

THE SUITS AGAINST GOVERNMENT ACT, 1923.

An Act to provide for Suits against Government.

(*As amended by Acts* III *of* 1945 *and* X *of* 1946.)

WHEREAS it is expedient to provide for suits against Government, His Highness the Maharaja is pleased to enact as follows :—

[1][**1.** (i) This Act may be called the Suits against Government Act, 1923.]

(ii) It shall extend to the [2][whole of the State of Mysore except Bellary District,] and

(iii) It shall come into force at once.

[1][**2.** A suit to which the Government of Mysore is a party as a defendant may be heard and determined by the Court having jurisdiction over the subject matter of the suit,] if the claim in respect of which the suit is brought is for any of the following reliefs :—

(*a*) for recovery of land, goods, or money in wrongful possession of Government or for compensation when restitution cannot be given ;

(*b*) for specific performance of contracts ;

(*c*) for damages for breach of contracts, express or implied ;

(*d*) for rents and mesne profits ;

(*e*) for the rectification or cancellation of any instrument ;

(*f*) for compensation for injury to person or property due to wrongful neglect or default in the management of any industrial concern owned by Government ;

[3][(*g*) or for reliefs arising from the infringement of a trade mark or otherwise relating to any right in a trade mark.]

3. Notwithstanding anything contained in the Code of Civil Procedure, no Civil Court shall take cognisance of any suit against Government except in regard to matters expressly provided for in this Act or in any other enactment for the time being in force.

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1. Substituted by Act X of 1946.
2. See the Mysore Adaptation of Laws Order, 1953.
3. Added by Act III of 1945.

MYSORE ACT No. IX OF 1923.

THE USURIOUS LOANS ACT, 1923.

An Act to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind.

(*Received the assent of His Highness the Maharaja on the 4th day of September* 1923.)

WHEREAS it is expedient to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind ; His Highness the Maharaja is pleased to enact as follows :—

Short title and extent.

1. (1) This Act may be called the Usurious Loans Act, 1923.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) The Government may, by notification in the official gazette, direct that it shall not apply to any area, class of persons, or class of transactions which it may specify in its notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " Interest ' means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(2) " Loan " means a loan whether of money or in kind, and includes any transaction which is, in the opinion of the Court, in substance a loan.

(3) " Suit to which this Act applies " means any suit,—

(*a*) for the recovery of a loan made after the commencement of this Act ; or

(*b*) for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made, after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.

Re-opening of transactions.

3. (1) Where, in any suit to which this Act applies whether heard *ex parte* or otherwise, the Court has reason to believe,—

(*a*) that the interest is excessive ; and

1. See the Mysore Adaptation of Laws Order, 1953.

(*b*) that the transaction was, as between the parties thereto, substantially unfair, the Court may exercise all or any of the following powers, namely, may,—

(*i*) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest ;

(*ii*) notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;

(*iii*) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just ;

Provided that in the exercise of these powers the Court shall not—

(*i*) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than six years from the date of the transaction ;

(*ii*) do anything which affects any decree of a Court.

Explanation.—In the case of a suit brought on a series of transactions the expression 'the transaction' means, for the purposes of proviso (*i*), the first of such transactions

(2) (*a*) In this section " excessive " means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan.

(*b*) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged, the periods at which it is calculated, and the total advantage which may

reasonably be taken to have been expected from the transaction.

(*c*) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.

(*d*) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities or supposed necessities of the debtor at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that a transaction was substantially unfair.

(3) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan.

(4) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bona fide*, and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word 'notice' shall have the same meaning as is ascribed to it in section 4 of the Transfer of Property Act, 1918.

(5) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Insolvency proceedings.

4. On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies.

ACT No. IV OF 1925

THE MYSORE LEPERS ACT, 1925

(Received the assent of His Highness the Maharaja on the Seventh day of July 1925.)

An Act to provide for the Registration, Segregation and Medical treatment of certain classes of lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the registration, segregation and medical treatment of certain classes of lepers and the control of lepers following certain callings, His Highness the Maharaja is pleased to enact as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Lepers Act, 1925.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

(3) It shall not come into force in any part thereof until the Government as hereinafter provided, has declared it applicable thereto.

(4) The Government may, by notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the State.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(1) "leper" means any person suffering from any variety of leprosy.

(2) "pauper leper" means a leper—

(*a*) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(*b*) who is at large without any ostensible means of subsistence ;

(3) "leper asylum" means a leper asylum appointed under section 3 ; and

(4) "Board" means a Board constituted under section 5.

Appointment of leper asylums by Government.

3. Government may, by notification in the official Gazette, appoint any place to be a leper asylum if it is

1. See the Mysore Adaptation of Laws Order, 1959.

satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of lepers therein, and may by a like notification, specify the local areas from which lepers may be sent to such asylum.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 17, the Government may appoint any medical officer of the State or other qualified medical man to be an Inspector of Lepers and any person to be a Superintendent of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Government shall constitute for every leper asylum appointed under section 3 a Board consisting of not less than three members, one of whom at least shall be a medical officer of the State.

Registration of lepers.

6. (1) Whenever an officer in charge of a Police Station has reason to believe that a leper is residing within the limits of such station whether temporarily or permanently, he shall forthwith send a report of the same to the Inspector of Lepers who, after making such enquiry as may be necessary, shall, if he finds that such person is a leper within the meaning of section 2, cause his name to be entered in a register in the form prescribed by the rules.

Any person deeming himself aggrieved by an entry made in such register, may complain to the District Magistrate against such entry, and the District Magistrate may after such enquiry as he deems fit, retain such person's name on the register or remove it therefrom as he may think fit.

Arrest of pauper lepers.

(2) (*a*) Within the area specified in section 3, any Police Officer may without a warrant arrest any person who appears to him to be a pauper leper ;

(*b*) Such Police Officer shall forthwith take or send the person so arrested to the nearest convenient Police Station.

Person arrested how to be dealt with.

7. (1) Every person brought to a Police Station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,

(*a*) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon

such person shall be forthwith released from arrest ;

(*b*) if he finds that such person is a leper within the meaning of section 2, shall give to the Police Officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

Lepers other than pauper lepers how to be dealt with.

(2) Whenever, within any local area, which has been specified under section 3, it is brought to the notice of a Police or Sanitary Officer not below the rank of an Inspector that a leper other than a pauper leper residing therein, is unable to take proper care of himself and is not properly taken care of by any friend or relative and that in consequence thereof infection is likely to spread to other persons, such Police or Sanitary Officer shall forthwith make a report of the same to the Inspector of Lepers, who after making such examination of the leper and such enquiry as may be necessary, shall, if he finds that such a person is a leper, make a report of the same to the Magistrate having jurisdiction under the Act accompanied by a certificate in Form B. Such Magistrate shall issue a warrant in Form C set forth in the schedule for the arrest and production of the leper before him on a date to be specified in the warrant.

Procedure with regard to pauper lepers and lepers not properly taken care of.

8. (1) If it appears to any District Magistrate or Magistrate of the 1st class or to any other Magistrate authorised in this behalf by the Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, or that he is unable to take proper care of himself and is not properly taken care of by any friend or relative, he may, after recording the evidence on the abovementioned points, and his order thereon, send the leper in charge of a Police Officer together with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate :

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers and shall take such further evidence as may be necessary to support or to rebut the allegation that the

person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that if any friend or relative of any person found to be a leper shall undertake in writing to the satisfaction of the Magistrate that such leper shall be properly taken care of, and shall be prevented from publicly begging in any area specified under section 3, or from spreading the infection to others, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure shall be applicable.

(2) If the Magistrate finds that such person is not a leper, he shall forthwith discharge him.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (1) The Government may, by notification in the Official Gazette, order that no leper shall, within the area specified under section 3—

(*a*) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or

(*b*) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or

(*c*) drive, conduct or ride in any public carriage plying for hire other than a railway carriage ; or

(*d*) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such person.

Conviction after previous conviction.

10. (1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under sub-section (1), the Magistrate may send him in charge of a Police Officer, with an order in Form E set forth in the schedule, to a leper asylum where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a District Magistrate or Magistrate of the first class.

Penalty on person employing lepers in prohibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees :

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Appeal from orders of Magistrates.

12. Orders passed by a Magistrate under sections 9, 10, and 11, shall be appealable to the courts to which appeals ordinarily lie under the Code of Criminal Procedure, 1904.

Re-arrest of escaped lepers.

13. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form D or Form E set forth in the schedule escapes from, or leaves the asylum without the permission in writing of the Superintendent thereof, may be arrested without a warrant, by any Police Officer or by any other person specially empowered by the Government by order in writing in this behalf, and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

14. Two or more members of the Board, one of whom shall be the medical officer, shall, once at least in every three months, together, inspect the leper asylum for which they are constituted, and see and examine (*a*) every leper therein admitted since the last inspection, together with the order for his admission, and (*b*) as far as circumstances will permit, every other leper therein and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board or District Magistrate.

15. Any two members of the Board, one of whom shall be the medical officer, or the District Magistrate, may at any time by an order in writing in Form F set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

16. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Government in this behalf, and the decision of such officer shall be final.

Power of the Government to make rules.

17. The Government may, by notification in the Official Gazette, make rules generally for carrying out the purposes of this Act and in particular—

(*a*) for the guidance of all or any of the officers discharging any duty under this Act ; and

(*b*) for the management of, and the maintenance of discipline in a leper asylum.

Power to local authorities to expend funds and appropriate properties to asylums.

18. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

(*a*) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority ;

(*Schedule*)

(*b*) with the previous sanction of the Government and subject to such conditions as Government may prescribe, appropriate any immovable property vested in or under the control of, such body, as a site, for, or for use as, a leper asylum.

19. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act. Protection to persons acting *bona fide* under Act.

SCHEDULE.

A—CERTIFICATE.

(*Section* 7.)

I, the undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of person examined*) and that the said is not a leper as defined by the Lepers Act, 1925.

Given under my hand this day of 192 .

(*Signature.*)
Inspector of Lepers.

B—CERTIFICATE.

(*Section* 7.)

I, the undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of leper*), and that the said leper as defined by the Lepers Act, 1925 and that I have formed this opinion on the following grounds, namely :—

(*Here state the grounds.*)

Given under my hand this day of 192 .

(*Signature.*)
Inspector of Lepers.

(*Schedule*)

C—WARRANT CASES.

[*Section* 7 (2).]

To

(Name and designation of the person or persons who is or are to execute the warrant.)

Whereas the Inspector of Lepers (designation in full) makes a report under section 7 (2) of the Lepers Act, 1925 that.... ..... is a leper, you are hereby directed to arrest the said ..... and to produce him before me on

Herein fail not.

Dated this day of 192 .

Seal.

(*Signature.*)

D—WARRANT OF DETENTION.

(*Section* 8.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1925 or a leper as defined in the Act who cannot take proper care of himself/herself or be properly taken care of by his/her friend or relative.

This is to authorise you the said Superintendent, to receive the said into your custody together with this order and

(*Schedule*)

him / her ——safely to keep in the said asylum until —— he / she shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 192 .

(*Signature.*)

Seal.

Magistrate.

E—WARRANT OF DETENTION.

(*Section* 10.)

To ,

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1925 and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section.

This is to authorise you, the Superintendent, to receive the said into your custody together with this order and him / her ——safely to keep in the said asylum until —— he / she shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 192 .

(*Signature.*)

Seal.

Magistrate.

(*Schedule*)

F—ORDER OF DISCHARGE BY BOARD OR THE DISTRICT MAGISTRATE.

(*Section* 15.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) was committed to your custody under an order dated the day of 192 and there have appeared to us sufficient grounds for the opinion that he
——can be released without hazard or inconvenience to the com- she
munity.

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hand / my hand this day of 192 .

(*Signature.*)

Members of the Asylum Board or the District Magistrate.

MYSORE ACT No. IX OF 1925.

THE ANCIENT MONUMENTS PRESERVATION ACT, 1925

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MYSORE ACT No. IX OF 1925

THE ANCIENT MONUMENTS PRESERVATION ACT, 1925

(Received the Assent of His Highness the Maharaja on the 9th day of July 1925.)

An Act to Provide for the Preservation of Ancient Monuments and of Objects of Archæological, Historical or Artistic Interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places and for the protection and acquisition in certain cases of ancient monuments and of objects of archæological, historical or artistic interest; His Highness the Maharaja is pleased to enact as follows:—

Short title and extent.

1. (1) This Act may be called the Ancient Monuments Preservation Act, 1925.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " ancient monument " means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archæological or artistic interest, or any remains thereof and includes,—

(*a*) the site of an ancient monument;

(*b*) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and

(*c*) the means of access to and convenient inspection of an ancient monument;

(2) " antiquities " include any movable objects which the Government, by reason of their historical or archæological associations, may think it necessary to protect against injury, removal or dispersion;

1. See the Mysore Adaptation of Laws Order, 1958.

(3) "Commissioner" includes any officer authorized by the Government to perform the duties of a Commissioner under this Act;

(4) "maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto;

(5) "land' includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrances or not; and

(6) "owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee:

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

Protected monuments.

3. (1) The Government may, by notification in the official Gazette, declare an ancient monument to be a protected monument within the meaning of this Act.

(2) A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the Government within two months from the date when it is so fixed up will be taken into consideration.

(3) On the expiry of the said period of two months, the Government, after considering the objections, if any, shall confirm or withdraw the notification.

(4) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

Ancient Monuments.

Acquisition of rights in or guardianship of an ancient monument.

4. (1) The Deputy Commissioner, with the sanction of the Government, may purchase or take a lease of any protected monument.

(2) The Deputy Commissioner, with the like sanction, may accept a gift or bequest of any protected monument.

(3) The owner of any protected monument may, by written instrument, constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the Government, accept such guardianship.

(4) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

(5) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

(6) Where a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

Preservation of ancient monument by agreement.

5. (1)The Deputy Commissioner may, with the previous sanction of the Government, propose to the owner to enter into an agreement with the Government of Mysore for the preservation of any protected monument in his district.

(2) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement :—

(*a*) the maintenance of the monument ;

(*b*) the custody of the monument, and the duties of any person who may be employed to watch it ;

(*c*) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument ;

(*d*) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Deputy Commissioner to inspect or maintain the monument ;

(*e*) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value ;

(*f*) the payment of any expenses incurred by the owner or by the Government in connection with the preservation of the monument;

(*g*) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the preservation of the monument;

(*h*) the appointment of an authority to decide any dispute arising out of the agreement; and

(*i*) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(3) An agreement under this section may be executed by the Deputy Commissioner on behalf of the Government of Mysore, but shall not be so executed until it has been approved by the Government.

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Government and with the consent of the owner.

(5) With the previous sanction of the Government, the Deputy Commissioner may terminate an agreement under this section on giving six months' notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six months' notice to the Deputy Commissioner.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by Government in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

Owners under disability or not in possession.

6. (1) If the owner is unable, by reason of infancy or other disability to act for himself, the person legally competent to act on his behalf may exercise powers conferred upon an owner by section 5.

(2) In the case of village property, the head man or other village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

Enforcement of agreement.

7. (1) If the Deputy Commissioner apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Deputy Commissioner may make an order prohibiting any such contravention of the agreement.

(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Deputy Commissioner necessary to such preservation or maintenance or neglects to do any such act within such reasonable time as may be fixed by the Deputy Commissioner, the Deputy Commissioner may authorise any person to do any such act and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land revenue.

(3) A person aggrieved by an order made under this section may appeal to the Commissioner who may cancel or modify it and whose decision shall be final.

Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.

8. Every person who purchases, at a sale for arrears of land revenue or any other public demand, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5 and every person claiming any title to a monument from, through or under an owner who executed any such instrument shall be bound by such instrument.

Application of endowment to repair of an ancient monument.

9. (1) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into such an agreement when proposed to him by the Deputy Commissioner, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Deputy Commissioner

may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

Compulsory purchase of ancient monument.

10. (1) If the Government apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, the Government may proceed to acquire it under the provisions of the Land Acquisition Act, 1894, as if the preservation of a protected monument were a "public purpose" within the meaning of that Act.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

(*a*) any monument which or any part of which is periodically used for religious observances; or

(*b*) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Deputy Commissioner may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

Maintenance of certain protected monuments.

11. (1) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose

of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

Voluntary contributions.

12. The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him :

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

13. (1) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character.

(2) Where the Deputy Commissioner has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest, or the Commissioner has, under the same section, accepted the guardianship thereof, and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Deputy Commissioner shall make due provision for the protection of such monument or such part thereof, from pollution or desecration—

(*a*) by prohibiting the entry therein, except in accordance wth conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages, of the community by which the monument or part thereof is used, or

(*b*) by taking such other action as he may think necessary in this behalf.

Government's right in a monument.

14. With the sanction of the Government, the Commissioner may—

(*a*) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired ; or

(*b*) relinquish any guardianship of a monument which he has accepted under this Act.

(*Traffic in Antiquities*)

Right of access to certain protected monuments.

15. (1) Subject to such rules as may after previous publication be made by the Government, the public shall have a right of access to any monument maintained by the Government under this Act.

(2) In making any rule under sub-section (1), the Government may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

Penalties.

16. Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees or with imprisonment which may extend to three months, or with both.

Traffic in Antiquities.

Power to Government to control traffic in antiquities.

17. (1) If the Government of Mysore apprehend that antiquities are being sold or removed to the detriment of Mysore or of any neighbouring province or State, it may, by notification in the official Gazette, prohibit or restrict the bringing or taking of any antiquities or class of antiquities described in the notification into or out of Mysore or any specified part of Mysore.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of Mysore or any part of Mysore in contravention of a notification issued under sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of Police of a grade not lower than Sub-Inspector, duly empowered by the Government in this behalf, may search any cart or other means of conveyance, and may open any baggage or package of goods, if he has reason to believe, that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(*Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects*)

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised, may address his complaint to Government, and the Government shall pass such order and may award such compensation, if any, as appears to it to be just.

Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.

Power to Government to control moving of sculptures, carvings or like objects.

18. (1) If the Government considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Government, the Government may, by notification in the official Gazette, direct that any such object or any class of such objects shall not be moved unless with the written permission of the Deputy Commissioner.

(2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Deputy Commissioner may require.

(3) If the Deputy Commissioner refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the Government that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the Government shall either—

(*a*) exempt such property from the said notification ;

(*b*) purchase such property, if it be movable, at its market value ;

(*c*) pay compensation for any loss or damage sustained by the owner of such property, if it be immovable.

(Excavations—General)

Purchase of sculptures, carvings or like objects by the Government.

19. (1) If the Government apprehends that any object mentioned in a notification issued under section 18, sub-section (1), is in danger of being destroyed, removed, injured or allowed to fall into decay, the Government may pass orders for the compulsory purchase of such object at its market value, and the Deputy Commissioner shall thereupon give notice to the owner of the object to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to—

(*a*) any image or symbol actually used for the purpose of any religious observance ; or

(*b*) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

Excavations.

Power to Government to control excavation.

20. (1) If the Government is of opinion that excavation within the limits of any local area ought to be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Government may, by notification in the official Gazette, make rules—

(*a*) fixing the boundaries of the area to which the rules are to apply ; and

(*b*) prescribing the authority by which, and the terms on which, licenses to excavate may be granted.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1), proves to the satisfaction of the Government that he has sustained any loss by reasons of such land being so included, the Government shall pay compensation in respect of such loss.

General.

Assessment of market value or compensation.

21. The market value of any property which Government is empowered to purchase at such value under this Act or the amount of compensation to be paid by Govern-

ment in respect of anything done under this Act shall, where any dispute arises touching the amount of such market value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable :

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Deputy Commissioner shall be assisted by two assessors, one of whom shall be a competent person nominated by the Deputy Commissioner and one a person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Deputy Commissioner in this behalf, by the Deputy Commissioner.

Jurisdiction.

22. A Magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act.

Power to make rules.

23. (1) The Government may make rules for carrying out any of the purposes of the Act.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

Protection to public servants acting under this Act.

24. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or intended to be done in good faith in the exercise of any power conferred by this Act.

THE MYSORE INSOLVENCY ACT, 1925

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MYSORE ACT No. XI OF 1925

THE MYSORE INSOLVENCY ACT, 1925

(AS AMENDED BY ACT VIII OF 1942.)

(Received the assent of His Highness the Maharaja on the 30th day of September 1925.)

An Act to consolidate and amend the Law relatnig to Insolvency in [1][the State of Mysore execept Bellary District.]

WHEREAS it is expedient to consolidate and amend the law relating to Insolvency in [1][the State of Mysore except Bellary District], His Highness the Maharaja is pleased to enact as follows :—

Short title and extent.

1. (1) This Act may be called the Mysore Insolvency Act, 1925.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context :—

(*a*) "creditor" includes a decree-holder, "debt" includes a judgment-debt, and "debtor" includes a judgment-debtor ;

(*b*) "District Court" means the principal Civil Court of original jurisdiction ;

(*c*) "prescribed" means prescribed by rules made under this Act ;

(*d*) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit ;

(*e*) "secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor ; and

(*f*) "transfer of property" includes a transfer of any interest in property and the creation of any charge upon property.

(2) Words and expressions used in this Act and defined in the Code of Civil Procedure, 1911, and not hereinbefore defined shall have the same meanings as those respectively attributed to them by the said Code.

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1. See the Mysore Adaptation of Laws Order, 1953.

PART I.

CONSTITUTION AND POWERS OF COURT.

Insolvency jurisdiction.

3. The jurisdiction under this Act shall be exercised by the District Courts:

Provided that the Government may, by notification in the official Gazette, invest any Court subordinate to a District Court with jurisdiction in any class of cases, and any Court so invested shall within the local limits of its jurisdiction have concurrent jurisdiction with the District Court under this Act.

Power of Court to decide all questions arising in insolvency.

4. (1) Subject to the provisions of this Act, the Court shall have full power to decide all questions whether of title or priority, or of any nature whatsoever, and whether involving matters of law or of fact, which may arise in any case of insolvency coming within the cognisance of the Court or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) Subject to the provisions of this Act and notwithstanding anything contained in any other law for the time being in force, every such decision shall be final and binding for all purposes as between, on the one hand, the debtor and the debtor's estate and, on the other hand, all claimants against him or it and all persons claiming through or under them or any of them.

(3) Where the Court does not deem it expedient or necessary to decide any question of the nature referred to in sub-section (1), but has reason to believe that the debtor has a saleable interest in any property, the Court may without further inquiry sell such interest in such manner and subject to such conditions as it may think fit.

General powers of Courts.

5. (1) Subject to the provisions of this Act, the Court, in regard to proceedings under this Act, shall have the same powers and shall follow the same procedure as it has and follows in the exercise of original civil jurisdiction.

(2) Subject as aforesaid, the High Court and District Courts, in regard to proceedings under this Act in Courts

subordinate to them, shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to civil suits.

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Acts of Insolvency.

Acts of insolvency.

6. A debtor commits an act of Insolvency in each of the following cases, namely :—

(*a*) if, in Mysore or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally ;

(*b*) if, in Mysore or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors ;

(*c*) if, in Mysore or elsewhere, he makes any transfer of his property, or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent ;

(*d*) if, with intent to defeat or delay his creditors,—

(i) he departs or remains out of Mysore ;

(ii) he departs from his dwelling-house or usual place of business or otherwise absents himself ;

(iii) he secludes himself so as to deprive his creditors of the means of communicating with him ;

(*e*) if any of his property has been sold in execution of the decree of any Court for the payment of money ;

(*f*) if he petitions to be adjudged an insolvent under the provisions of this Act ;

(*g*) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend payment of his debts ; or

(*h*) if he is imprisoned in execution of the decree of any Court for the payment of money.

Explanation.—For the purpose of this section the act of an agent may be the act of the principal.

(*Part II—Proceedings from Act of Insolvency to Discharge—Petition*)

Petition.

Petition and adjudication.

7. Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

Exemption of corporation, etc., from insolvency proceedings.

8. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Conditions on which creditor may petition.

9. (1) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

(*a*) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors amounts to five hundred rupees, and

(*b*) the debt is a liquidated sum payable either immediately or at some certain future time, and

(*c*) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent, or give an estimate of the value of the security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

Conditions on which debtor may petition.

10. (1) A debtor shall not be entitled to present an insolvency petition, unless he is unable to pay his debts and—

(*a*) his debts amount to five hundred rupees; or

(Part II—Proceedings from Act of Insolvency to Discharge—Petition)

(*b*) he is under arrest or imprisonment in execution of the decree of any Court for the payment of money; or

(*c*) an order of attachment in execution of such a decree has been made, and is subsisting, against his property.

(2) A debtor in respect of whom an order of adjudication made under this Act has been annulled, owing to his failure to apply, or to prosecute an application for his discharge shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts substantially different from those contained in the petition on which the order of adjudication was made.

Court to which petition shall be presented.

11. Every insolvency petition shall be presented to a Court having jurisdiction under this Act in any local area in which the debtor ordinarily resides or carries on business, or personally works for gain, or if he has been arrested or imprisoned, where he is in custody:

Provided that no objection as to the place of presentment shall be allowed by any Court in the exercise of appellate or revisional jurisdiction unless such objection was taken in the Court by which the petition was heard at the earliest possible opportunity, and unless there has been a consequent failure of justice.

Verification of petition.

12. Every insolvency petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints.

Contents of petition.

13. (1) Every insolvency petition presented by a debtor shall contain the following particulars, namely:—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he ordinarily resides or carries on business or personally works for gain, or, if he has been arrested or imprisoned, the place where he is in custody;

(Part II—Proceedings from Act of Insolvency to Discharge—Petition)

(*c*) the Court (if any) by whose order he has been arrested or imprisoned, or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made;

(*d*) the amount and particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him;

(*e*) the amount and particulars of all his property together with—

(i) a specification of the value of all such property not consisting of money;

(ii) the place or places at which any such property is to be found; and

(iii) a declaration of his willingness to place at the disposal of the Court all such property save in so far as it includes such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1911, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree;

(*f*) a statement whether the debtor has on any previous occasion filed a petition to be adjudged an insolvent, and (where such a petition has been filed)—

(i) if such petition has been dismissed, the reasons for such dismissal, or

(ii) if the debtor has been adjudged an insolvent, concise particulars of the insolvency, including a statement whether any previous adjudication has been annulled and, if so, the grounds therefor.

(2) Every insolvency petition presented by a creditor or creditors shall set forth the particulars regarding the debtor specified in clause (*b*) of sub-section (1), and shall also specify—

(*a*) the act of insolvency committed by such debtor, together with the dates of its commission; and

(*b*) the amount and particulars of his or their pecuniary claim or claims against such debtor.

(Part II—Proceedings from Act of Insolvency to Discharge—Petition)

Withdrawal of petitions.

14. No petition, whether presented by a debtor or by a creditor, shall be withdrawn without the leave of the Court.

Consolidation of petitions.

15. Where two or more insolvency petitions are presented against the same debtor, or where separate petitions are presented against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

Power to change carriage of proceedings.

16. Where the petitioning creditor does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor.

Continuance of proceedings on death of debtor.

17. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued so far as may be necessary for the realisation and distribution of the property of the debtor.

Procedure for admission of petition.

81 The procedure laid down in the Code of Civil Procedure, 1911, with respect to the admission of plaints, shall, so far as it is applicable, be followed in the case of insolvency petitions.

Procedure on admission of petition.

19. (1) Where an insolvency petition is admitted, the Court shall make an order fixing a date for hearing the petition.

(2) Notice of the order under sub-section (1) shall be given to creditors in such manner as may be prescribed.

(3) Where the debtor is not the petitioner, notice of the order under sub-section (1) shall be served on him in the manner provided for the service of summons.

Appointment of interim receiver.

20. The Court when making an order admitting the petition may, and where the debtor is the petitioner ordinarily shall appoint an interim receiver of the property of the debtor or of any part thereof, and may direct him to take immediate possession thereof or of any part thereof, and the interim receiver shall thereupon have such of the powers conferrable on a receiver appointed under the Code of Civil Procedure, 1911, as the Court may direct. If an interim receiver is not so appointed, the Court may make

such appointment at any subsequent time before adjudication, and the provisions of this section shall apply accordingly.

Interim proceedings against debtor.

21. At the time of making an order admitting the petition or at any subsequent time before adjudication, the Court may either of its own motion or on the application of any creditor make one or more of the following orders, namely:—

(1) order the debtor to give reasonable security for his appearance until final orders are made upon the petition, and direct that, in default of giving such security, he shall be detained in the civil prison;

(2) order the attachment by actual seizure of the whole or any part of the property in the possession or under the control of the debtor, other than such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1911, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree;

(3) order a warrant to issue with or without bail for the arrest of the debtor, and direct either that he be detained in the civil prison until the disposal of the petition, or that he be released on such terms as to security as may be reasonable and necessary:

Provided that an order under clause (2) or clause (3) shall not be made unless the Court is satisfied that the debtor, with intent to defeat or delay his creditors or to avoid any process of the Court,—

(*i*) has absconded or has departed from the local limits of the jurisdiction of the Court, or is about to abscond or to depart from such limits, or is remaining outside them, or

(*ii*) has failed to disclose or has concealed, destroyed, transferred or removed from such limits, or is about to conceal, destroy, transfer or remove from such limits, any documents likely to be of use to his creditors in the course of the hearing, or any part of his property other than such particulars as aforesaid.

Duties of debtors.

22. The debtor shall on the making of an order admitting the petition produce all books of account, and

shall at any time thereafter give such inventories of his property, and such lists of his creditors and debtors and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend at such times before the Court or receiver, execute such instruments, and generally do all such acts and things in relation to his property as may be required by the Court or receiver, or as may be prescribed.

Release of debtors.

23. (1) At the time of making an order admitting the petition or at any subsequent time before adjudication, the Court may, if the debtor is under arrest or imprisonment in execution of the decree of any Court for the payment of money, order his release on such terms as to security as may be reasonable and necessary.

(2) The Court may at any time order any person who has been released under this section to be re-arrested and recommitted to the custody from which he was released.

(3) At the time of making any order under this section, the Court shall record in writing its reasons therefor.

Procedure at hearing.

24. (1) On the day fixed for the hearing of the petition, or on any subsequent day to which the hearing may be adjourned, the Court shall require proof of the following matters, namely :—

(*a*) that the creditor or the debtor, as the case may be, is entitled to present the petition :

Provided that, where the debtor is the petitioner, he shall, for the purpose of proving his inability to pay his debts, be required to furnish only such proof as to satisfy the Court that there are *prima facie* grounds for believing the same and the Court, if and when so satisfied shall not be bound to hear any further evidence thereon ;

(*b*) that the debtor, if he does not appear on a petition presented by a creditor, has been served with notice of the order admitting the petition ; and

(*c*) that the debtor has committed the act of insolvency alleged against him.

(2) The Court shall also examine the debtor, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear at the hearing, and

the creditors shall have the right to question the debtor thereon.

(3) The Court shall, if sufficient cause is shown, grant time to the debtor or to any creditor to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(4) A memorandum of the substance of the examination of the debtor and of any other oral evidence given shall be made by the Judge, and shall form part of the record of the case.

Dismissal of petition.

25. (1) In the case of a petition presented by a creditor where the Court is not satisfied with the proof of his right to present the petition or of the service on the debtor of notice of the order admitting the petition, or of the alleged act of insolvency, or is satisfied by the debtor that he is able to pay his debts, or that for any other sufficient cause no order ought to be made, the Court shall dismiss the petition.

(2) In the case of a petition presented by a debtor, the Court shall dismiss the petition if it is not satisfied of his right to present the petition.

Award of compensation.

26. (1) Where a petition presented by a creditor is dismissed under sub-section (1) of section 25, and the Court is satisfied that the petition was frivolous, or vexatious, the Court may on the application of the debtor, award against such creditor such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the petition and the proceedings thereon, and such amount may be realised as if it were a fine.

(2) An award under this section shall bar any suit for compensation in respect of such petition and the proceedings thereon.

Order of Adjudication.

Order of adjudication.

27. (1) If the Court does not dismiss the petition, it shall make an order of adjudication, and shall specify in such order the period within which the debtor shall apply for his discharge.

(Part II—Proceedings from Act of Insolvency to Discharge—Order of Adjudication)

(2) The Court may, if sufficient cause is shown, extend the period within which the debtor shall apply for his discharge, and in that case shall publish notice of the order in such manner as it thinks fit.

Effect of an order of adjudication.

28. (1) On the making of an order of adjudication, the insolvent shall aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors.

(2) On the making of an order of adjudication, the whole of the property of the insolvent shall vest in the Court or in a receiver as hereinafter provided, and shall become divisible among the creditors, and thereafter, except as provided by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable under this Act shall during the pendency of the insolvency proceedings, have any remedy against the property of the insolvent in respect of the debt, or commence any suit or other legal proceeding, except with the leave of the Court and on such terms as the Court may impose.

(3) For the purposes of sub-section (2) all goods being at the date of the presentation of the petition on which the order is made in the possession, order or disposition of the insolvent in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof, shall be deemed to be the property of the insolvent.

(4) All property which is acquired by or devolves on the insolvent after the date of an order of adjudication and before his discharge shall forthwith vest in the Court or receiver, and the provisions of sub-section (2) shall apply in respect thereof.

(5) The property of the insolvent for the purposes of this section shall not include any property (not being books of account) which is exempted by the Code of Civil Procedure, 1911, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree.

(6) Nothing in this section shall affect the power of any secured creditor to realise or otherwise deal with his security, in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(Part II—Proceedings from Act of Insolvency to Discharge—Proceedings consequent on Order of Adjudication)

(7) An order of adjudication shall relate back to and take effect from, the date of the presentation of the petition on which it is made.

Stay of pending proceeding.

29. Any Court in which a suit or other proceeding is pending against a debtor shall, on proof that an order of adjudication has been made against him under this Act, either stay the proceeding, or allow it to continue on such terms as such Court may impose.

Publication of order of adjudication.

30. Notice of an order of adjudication stating the name, address and description of the insolvent, the date of the adjudication, the period within which the debtor shall apply for his discharge, and the Court by which the adjudication is made, shall be published in the official Gazette and in such other manner as may be prescribed.

Proceedings consequent on Order of Adjudication.

Protection order.

31. (1) Any insolvent in respect of whom an order of adjudication has been made may apply to the Court for protection, and the Court may on such application make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts of the debtor, or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order applies, and any insolvent arrested or detained contrary to the terms of such an order shall be entitled to his release :

Provided that no such order shall operate to prejudice the right of any creditor in the event of such order being revoked or the adjudication annulled.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order.

Power to arrest after adjudication.

32. At any time after an order of adjudication has been made, the Court may, if it has reason to believe on the application of any creditor or the receiver, that the debtor

(Part II—Proceedings from Act of Insolvency to Discharge—Proceedings consequent on Order of Adjudication)

has absconded or departed from the local limits of its jurisdiction with intent to avoid any obligation which has been or might be, imposed on him by or under this Act, order a warrant to issue for his arrest, and on his appearing or being brought before it, may, if satisfied that he was absconding or had departed with such intent, order his release on such terms as to security as may be reasonable or necessary, or if such security is not furnished direct that he shall be detained in the civil prison for a period which may extend to three months.

Schedule of creditors.

33. (1) When an order of adjudication has been made under this Act, all persons alleging themselves to be creditors of the insolvent in respect of debts provable under this Act, shall tender proof of their respective debts by producing evidence of the amount and particulars thereof, and the Court shall, by order, determine the persons who have proved themselves to be creditors of the insolvent in respect of such debts, and the amount of such debts, respectively, and shall frame a schedule of such persons and debts :

Provided that, if, in the opinion of the Court, the value of any debts is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt shall not be included in the schedule.

(2) A copy of every such schedule shall be posted in the Court-house.

(3) Any creditor of the insolvent may, at any time before the discharge of the insolvent, tender proof of the debt and apply to the Court for an order directing his name to be entered in the schedule as a creditor in respect of any debt provable under this Act, and not entered in the schedule, and the Court, after causing notice to be served on the insolvent and the other creditors who have proved their debts, and hearing their objections (if any), shall comply with or reject the application.

Debts provable under the Act.

34. (1) Debts which have been excluded from the schedule on the ground that their value is incapable of being fairly estimated and demands in the nature of unliquidated damages arising otherwise than by reason of a contract or a breach of trust shall not be provable under this Act.

(Part II—Proceedings from Act of Insolvency to Discharge—Annulment of Adjudication—Compositions and Schemes of Arrangement)

(2) Save as provided by sub-section (1), all debts and liabilities, present or future, to which the debtor is subject when he is adjudged an insolvent, or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable under this Act.

Annulment of Adjudication.

Power to annul adjudication of insolvency.

35. Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court shall, on the application of the debtor, or of any other person interested, by order in writing, annul the adjudication.

Power to cancel one of concurrent orders of adjudication.

36. If, in any case in which an order of adjudication has been made, it shall be proved to the Court by which such order was made that insolvency proceedings are pending in another Court against the same debtor, and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or stay all proceedings thereon.

Proceedings on annulment.

37. (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court or receiver, shall be valid; but, subject as aforesaid, the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint, or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such conditions (if any) as the Court may, by order in writing, declare.

(2) Notice of every order annulling an adjudication shall be published in the Official Gazette and in such other manner as may be prescribed.

Compositions and Schemes of Arrangement.

Compositions and schemes of arrangement.

38. (1) Where a debtor after the making of an order of adjudication, submits a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, the Court shall fix a date for the consideration of the proposal, and shall issue a notice to all creditors in such manner as may be prescribed.

(Part II—Proceedings from Act of Insolvency to Discharge—Compositions and Schemes of Arrangement)

(2) If, on the consideration of the proposal, a majority in number and three-fourths in value of all the creditors whose debts are proved and who are present in person or by pleader, resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The debtor may at the meeting amend the terms of his proposal if the amendment is, in the opinion of the Court, calculated to benefit the general body of creditors.

(4) Where the Court is of opinion, after hearing the report of the receiver, if a receiver has been appointed, and after considering any objections which may be made by or on behalf of any creditor, that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(5) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than six annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal.

Order on approval.

39. If the Court approves the proposal, the terms shall be embodied in an order of the Court, and the Court shall frame a schedule in accordance with the provisions of section 33, the order of adjudication shall be annulled, and the provisions of section 37 shall apply, and the composition or scheme shall be binding on all the creditors entered in the said schedule so far as relates to any debts entered therein.

Power to re-adjudge debtor insolvent.

40. If default is made in the payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court

may, if it thinks fit, re-adjudge the debtor insolvent and annul the composition or scheme but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme. When a debtor is re-adjudged insolvent under this section, all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency.

Discharge.

Discharge.

41. (1) A debtor may, at any time after the order of adjudication and shall, within the period specified by the Court, apply to the Court for an order of discharge, and the Court shall fix a day, notice whereof shall be given in such manner as may be prescribed, for hearing such application, and any objections which may be made thereto.

(2) Subject to the provisions of this section, the Court, may, after considering the objections of any creditor and, where a receiver has been appointed, the report of the receiver,

(*a*) grant or refuse an absolute order of discharge; or

(*b*) suspend the operation of the order for a specified time; or

(*c*) grant an order of discharge subject to any condition with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property.

Cases in which Court must refuse an absolute discharge.

42. (1) The Court shall refuse to grant an absolute order of discharge under section 41 on proof of any of the following facts, namely:—

(*a*) that the insolvent's assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities unless he satisfies the Court that the fact that the assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible;

(*b*) that the insolvent has omitted to keep such books of account as are usual and proper in the business

carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency;

(*c*) that the insolvent has continued to trade after knowing himself to be insolvent;

(*d*) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it;

(*e*) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities;

(*f*) that the insolvent has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs;

(*g*) that the insolvent has, within three months preceding the date of the presentation of the petition when unable to pay his debts as they became due, given an undue preference to any of his creditors;

(*h*) that the insolvent has on any previous occasion been adjudged an insolvent or made a composition or arrangement with his creditors;

(*i*) that the insolvent has concealed or removed his property or any part thereof, or has been guilty of any other fraud or fraudulent breach of trust.

(2) For the purposes of this section, the report of the receiver shall be deemed to be evidence; and the Court may presume the correctness of any statement contained therein.

(3) The powers of suspending, and of attaching, conditions to an insolvent's discharge may be exercised concurrently.

Adjudication to be annulled on failure to apply for discharge.

43. (1) If the debtor does not appear on the day fixed for hearing his application for discharge or on such subsequent day, as the Court may direct, or if the debtor does

not apply for an order of discharge within the period specified by the Court, the order of adjudication shall be annulled, and the provisions of section 37 shall apply accordingly.

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled under sub-section (1), the Court may, if it thinks fit, re-commit the debtor to his former custody, and the officer in charge of the prison to whose custody such debtor is so re-committed shall receive such debtor into his custody according to such re-commitment and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if no order of adjudication had been made.

Effect of order of discharge.

44. (1) An order of discharge shall not release the insolvent from—

(*a*) any debt due to the Government of Mysore;

(*b*) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party;

(*c*) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party; or

(*d*) any liability under an order for maintenance made under section 488 of the Code of Criminal Procedure, 1904.

(2) Save as otherwise provided by sub-section (1), an order of discharge shall release the insolvent from all debts provable under this Act.

(3) An order of discharge shall not release any person who, at the date of the presentation of the petition, was a partner or co-trustee with the insolvent, or was jointly bound or had made any joint contract with him or any person who was surety for him.

PART III.

ADMINISTRATION OF PROPERTY.

Method of Proof of Debts.

Debt payable at a future time.

45. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable

presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Mutual dealings and set off.

46. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively.

Secured creditor.

47. (1) Where a secured creditor realises his security he may prove for the balance due to him, after deducting the net amount realised.

(2) Where a secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.

(3) Where a secured creditor does not either realise or relinquish his security, he shall, before being entitled to have his debt entered in the schedule, state in his proof the particulars of his securiyt, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

(4) Where a security is so valued, the Court may at any time before realisation redeem it on payment to the creditor of the assessed value.

(5) Where a creditor, after having valued his security, subsequently realises it, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

(6) Where a secured creditor does not comply with the provisions of this section, he shall be excluded from all shares in any dividend.

Interest.

48. (1) On any debt or sum certain whereon interest is not reserved or agreed for, and which is overdue when the

debtor is adjudged an insolvent, and which is provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum—

(*a*) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when such debt or sum was payable to the date of such adjudication, or

(*b*) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

(2) Where a debt which has been proved under this Act includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall, for the purposes of dividend be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

Mode of proof.

49. (1) A debt may be proved under this Act by delivering, or sending by post in a registered letter, to the court an affidavit verifying the debt.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers (if any) by which the same can be substantiated. The Court may at any time call for the production of the vouchers.

Disallowance and reduction of entries in schedule.

50. (1) Where the receiver thinks that debt has been improperly entered in the schedule, the Court may, on the application of the receiver and after notice to the creditor, and such inquiry (if any) as the Court thinks necessary, expunge such entry or reduce the amount of the debt.

(2) The Court may also, after like inquiry, expunge an entry or reduce the amount of a debt upon the application of a creditor where no receiver has been appointed, or where the receiver declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

(Part III—Administration of Property—Effect of Insolvency on Antecedent Transactions.)

Effect of Insolvency on Antecedent Transactions.

Restriction of rights of creditor under execution.

51 (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the receiver except in respect of assets realised in the course of the execution by sale or otherwise before the date of the admission of the petition.

(2) Nothing in this section shall affect the rights of a secured creditor in respect of the property against which the decree is executed.

(3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the receiver.

Duties of Court executing decree as to property taken in execution.

52. Where execution of a decree has issued against any property of a debtor which is saleable in execution and before the sale thereof, notice is given to the Court executing the decree that an insolvency petition by or against the debtor has been admitted, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the receiver, but the cost of the suit in which the decree was made and of the execution shall be a first charge on the property so delivered, and the receiver may sell the property or an adequate part thereof for the purpose of satisfying the charge.

Avoidance of voluntary transfer.

53. Any transfer of property not being a transfer made before or at and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if the transferor is adjudged insolvent [1][on a petition presented] within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the Court.

Avoidance of preference in certain cases.

54. (1) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is

1. Inserted by Act VIII of 1942.

adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the receiver, and shall be annulled by the Court.

(2) This section shall not affect the rights of any person who in good faith and for valuable consideration has acquired a title through or under a creditor of the insolvent.

Protection of *bona fide* transactions.

55. Subject to the foregoing provisions of this Act with respect to the effect of insolvency on an execution, and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

(*a*) any payment by the insolvent to any of his creditors;

(*b*) any payment or delivery to the insolvent;

(*c*) any transfer by the insolvent for valuable consideration; or

(*d*) any contract or dealing by or with the insolvent for valuable consideration:

Provided that any such transaction takes place before the date of the order of adjudication, and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

Realisation of Property.

Appointment of receiver.

56. (1) The Court may, at the time of the order of adjudication, or at any time afterwards, appoint a receiver for the property of the insolvent and such property shall thereupon vest in such receiver.

(2) Subject to such conditions as may be prescribed, the Court may—

(*a*) require the receiver to give such security as it thinks fit duly to account for what he shall receive in respect of the property; and

(*b*) by general or special order, fix the amount to be paid as remuneration for the services of the receiver out of the assets of the insolvent.

(*Part III—Administration of Property— Realisation of Property*)

(3) Where the Court appoints a receiver, it may remove the person in whose possession or custody any such property as aforesaid is from the possession or custody thereof:

Provided that nothing in this section shall be deemed to authorise the Court to remove from the possession or custody of property any person whom the insolvent has not a present right so to remove.

(4) Where a receiver appointed under this section—

(*a*) fails to submit his accounts at such periods and in such form as the Court directs, or

(*b*) fails to pay the balance due from him thereon as the Court directs, or

(*c*) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached and sold, and may apply the proceeds to make good any balance found to be due from him or any loss so occasioned by him.

(5) The provisions of this section shall apply, so far as may be, to interim receivers appointed under section 20.

Power to appoint Official Receivers.

57. (1) The Government of Mysore may appoint such persons as it thinks fit (to be called "Official Receivers") to be receivers under this Act within such local limits as it may prescribe.

(2) Where any Official Receiver has been so appointed for the local limits of the jurisdiction of any Court having jurisdiction under this Act, he shall be the receiver for the purpose of every order appointing a receiver or an interim receiver issued by any such Court, unless the Court for special reasons otherwise directs.

(3) Any sum payable under clause (*b*) of sub-section (2) of section 56 in respect of the services of an Official Receiver shall be credited to such fund as the Government may direct.

(4) Every Official Receiver shall receive such remuneration out of the said fund or otherwise as the Government may fix in this behalf, and no remuneration whatever beyond that so fixed shall be received by the Official Receiver as such.

(Part III—Administration of Property—Realisation of Property)

Power of Court if no receiver appointed.

58. Where no receiver is appointed, the Court shall have all the rights of, and may exercise all the powers conferred on, a receiver under this Act.

Duties and power of receiver.

59. Subject to the provisions of this Act, the receiver shall, with all convenient speed, realise the property of the debtor and distribute dividends among the creditors entitled thereto, and for that purpose may—

(*a*) sell all or any part of the property of the insolvent ;

(*b*) give receipts for any money received by him ;

and may, by leave of the Court, do all or any of the following things, namely—

(*c*) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same ;

(*d*) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent ;

(*e*) employ a pleader or other agent to take any proceedings or do any business which may be sanctioned by the Court ;

(*f*) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time subject to such stipulation as to security and otherwise as the Court thinks fit ;

(*g*) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts ;

(*h*) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon ; and

(*i*) divide in its existing form amongst the creditors, according to its estimated value any property which from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

Power to require information regarding insolvent's property.

[1][**59-A.** (1) The Court may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made,

1. Inserted by Act VIII of 1942.

summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent or any person whom the Court may deem capable of giving information respecting the insolvent or his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner].

Special provisions in regard to immovable property.

60. In any local area in which a declaration has been made under section 68 of the Code of Civil Procedure, 1911, and is in force, no sale of immovable property paying revenue to the Government or held or let for agricultural purposes shall be made by the receiver, but, after the other property of the insolvent has been realised, the Court shall ascertain—

(*a*) the amount required to satisfy the debts proved under this Act, after deducting the moneys already received;

(*b*) the immovable property of the insolvent remaining unsold; and

(*c*) the incumbrances (if any) existing thereon;

and shall forward a statement to the Deputy Commissioner containing the particulars aforesaid; and thereupon the Deputy Commissioner shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by paragraphs 2 to 10 of the Third Schedule to the said Code as he thinks fit, and subject to the provisions of those paragraphs so far as they are applicable, and shall hold at the disposal of the Court all

Part III—(Administration of Property—Distribution of Property)

sums that may come to his hands by the exercise of such powers.

Distribution of Property.

Priority of debts.

61. (1) In the distribution of the property of the insolvent there shall be paid in priority to all other debts :—

(*a*) all debts due to the Government of Mysore, or to any local authority ; and

(*b*) all salary or wages, not exceeding twenty rupees in all, of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition.

(2) The debts specified in sub-section (1) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case, they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (1) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(4) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners it shall be dealt with as part of the partnership property ; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(5) Subject to the provisions of this Act, all debts entered in the schedule shall be paid rateably according to the amounts of such debts respectively and without any preference.

(6) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest

from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts entered in the schedule.

Calculation of dividends.

62. (1) In the calculation of dividends, the receiver shall retain in his hands sufficient assets to meet—

(*a*) debts provable under this Act and appearing from the insolvent's statements or otherwise to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

(*b*) debts provable under this Act, the subject of claims not yet determined;

(*c*) disputed proofs or claims; and

(*d*) the expenses necessary for the administration of the estate or otherwise.

(2) Subject to the provisions of sub-section (1), all money in hand shall be distributed as dividends.

Right of creditor who has not proved debt before declaration of a dividend.

63. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid, out of any money for the time being in the hands of the receiver, any dividend or dividends which he may have failed to receive before that money is applied to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

64. When the receiver has realised all the property of the insolvent or so much thereof as can, in the opinion of the Court, be realised without needlessly protracting the receivership, he shall declare a final dividend; but before so doing, he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified but not proved, that if they do not prove their claims within the time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or if the Court, on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time, the property of the insolvent shall be divided among the creditors entered in the schedule without regard to the claims of any other persons.

(*Part IV—Penalties*)

65. No suit for a dividend shall lie against the receiver; but where the receiver refuses to pay any dividend, the Court may, on the application of any creditor who is entered in the schedule, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application. No suit for dividend.

66. (1) The Court may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of the creditors and in any other respect to aid in administering the property in such manner and on such terms as the Court may direct. Management by and allowance to insolvent.

(2) The Court may, from time to time, make such allowance as it may think just to the insolvent out of his property for the support of himself and his family, or in consideration of his services if he is engaged in winding up his estate; but any such allowance may at any time, be varied or determined by the Court.

67. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors with interest as provided by this Act, and of the expenses of the proceedings taken thereunder. Right of insolvent to surplus.

Appeal to Court against receiver.

68. If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of and make such order as it thinks just: Appeal to Court against receiver.

Provided that no application under this section shall be entertained after the expiration of twenty-one days from the date of the act or decision complained of.

PART IV.

Penalties.

69. If a debtor, whether before or after the making of an order of adjudication,— Offences by debtors.

(*a*) wilfully fails to perform the duties imposed on him by section 22 or to deliver up possession of any part of

his property which is divisible among his creditors under this Act, and which is for the time being in his possession or under his control to the Court or to any person authorised by the Court to take possession of it, or

(*b*) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act,

(i) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or

(ii) has kept or caused to be kept false books, or

(iii) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or

(*c*) fraudulently with intent to diminish the sum to be divided among his creditors or to give an undue preference to any of his creditors,—

(i) has discharged or concealed any debt due to or from him, or

(ii) has made away with, charged, mortgaged or concealed any part of his property of any kind whatsoever,

he shall be punishable on conviction by the Court with imprisonment which may extend to one year.

Procedure on charge under section 69.

70. (1) Where the Court is satisfied that there is ground for inquiring into any offence referred to in section 69, the Court shall direct that a notice be served on the debtor in the manner prescribed in the Code of Criminal Procedure, 1904, for service of a summons, calling on him to show cause why a charge or charges should not be framed against him.

(2) The notice shall set forth the substance of the offence, and any number of offences may be set forth in the same notice.

(3) At the hearing of such notice and of any charge framed in pursuance thereof, the Court shall, so far as may be, follow the procedure for the trial of warrant cases by Magistrates prescribed by Chapter XXI of the Code of Criminal Procedure, 1904, and nothing in Chapter XXIII of the said Code relating to trials before Courts of Session shall be applicable to such trial.

(*Part IV—Penalties*)

(4) Any number of offences under this section may be charged at the same time :

Provided that no debtor shall be sentenced to imprisonment exceeding an aggregate period of two years for offences under this section committed in the course of the same insolvency proceeding.

(5) The Court may, instead of itself inquiring into an offence under section 69, make a complaint thereof in writing to the nearest Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1904 :

Provided that it shall not be necessary to examine the complainant.

Criminal liability after discharge or composition.

71. Where an insolvent has been guilty of any of the offences specified in section 69, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition of scheme of arrangement has been accepted or approved.

Undischarged insolvent obtaining credit.

72. (1) An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Where the Court has reason to believe that an undischarged insolvent has committed the offence referred to in sub-section (1), the Court, after making any preliminary inquiry that may be necessary may send the case for trial to the nearest Magistrate of the first class, and may send the accused in custody or take sufficient security for his appearance before such Magistrate ; and may bind over any person to appear and give evidence on such trial.

Disqualifications of insolvent.

73. (1) Where a debtor is adjudged or re-adjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from—

(*a*) being appointed or acting as a Magistrate ;

(*b*) being elected to any office of any local authority where the appointment to such office is by election or holding or exercising any such office to which no salary is attached ; and

(*c*) being elected or sitting or voting as member of any local authority.

(2) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if,—

(*a*) the order of adjudication is annulled under section 35, or

(*b*) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

(3) The Court may grant or refuse such certificate as it thinks fit, but any order of refusal shall be subject to appeal.

PART V.

SUMMARY ADMINISTRATION.

Summary administration.

74. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise that the property of the debtor is not likely to exceed in value of five hundred rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

(*i*) unless the Court otherwise directs no notice required under this Act shall be published in the official Gazette;

(*ii*) on the admission of a petition by a debtor, the property of the debtor shall vest in the Court as a receiver;

(*iii*) at the hearing of the petition, the Court shall inquire into the debts and assets of the debtor and determine the same by order in writing, and it shall not be necessary to frame a schedule under the provisions of section 33;

(*iv*) the property of the debtor shall be realised with all reasonable despatch and thereafter, when practicable, distributed in a single dividend;

(*v*) the debtor shall apply for his discharge within six months from the date of adjudication; and

(*vi*) such other modifications as may be prescribed with the view of saving expense and simplifying procedure :

Provided that the Court may at any time direct that the ordinary procedure provided for in this Act shall be followed in regard to the debtor's estate, and thereafter the Act shall have effect accordingly.

PART VI.

APPEALS.

Appeals.

75. (1) The debtor, any creditor, the receiver or any other person aggrieved by a decision come to or an order made in the exercise of insolvency jurisdiction by a Court subordinate to a District Court may appeal to the District Court, and the order of the District Court upon such appeal shall be final :

Provided that the High Court, for the purpose of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the case and pass such order with respect thereto as it thinks fit :

Provided, further, that any such person aggrieved by a decision of the District Court on appeal from a decision of a subordinate Court under section 4 may appeal to the High Court on any of the grounds mentioned in sub-section (1) of section 100 of the Code of Civil Procedure, 1911.

(2) Any such person aggrieved by any such decision or order of a District Court as is specified in Schedule I, come to or made otherwise than in appeal from an order made by a subordinate Court, may appeal to the High Court.

(3) The High Court may, for the purpose of satisfying itself as to the legality or correctness of any order of a District Court passed under sub-section (1) or of any order other than those mentioned in sub-section (2), call for the case and pass such order with respect thereto as it thinks fit.

(4) The periods of limitation for appeals to the District Court and to the High Court under this section shall be thirty days and ninety days, respectively.

PART VII.

MISCELLANEOUS.

Costs.

76. The costs of any proceedings under this Act including the costs of maintaining a debtor in the civil prison, shall, subject to any rules made under this Act, be in the discretion of the Court in which the proceeding is had.

Courts to be auxiliary to each other.

77. All courts having jurisdiction in insolvency and the officers of such Courts, respectively, shall severally act in aid of and be auxiliary to each other in all matters of insolvency, and an order of a Court seeking aid with a request to another of the said Courts shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by the order, such jurisdiction as either of such Courts could exercise in regard to similar matters within their respective jurisdictions.

Limitation.

78. (1) The provisions of sections 5 and 12 of the Mysore Limitation Act, 1911, shall apply to appeals and applications under this Act, and for the purpose of the said section 12, a decision under section 4 shall be deemed to be a decree.

(2) Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application in respect of which the leave of the Court was obtained under sub-section (2) of section 28 which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded:

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act.

Power to make rules.

79. (1) The High Court may, with the previous sanction of the Government of Mysore, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide:—

(*a*) for the appointment and remuneration of receivers (other than Official Receivers), the audit of the

accounts of all receivers and the costs of such audit,

(*b*) for meetings of creditors,

(*c*) for the procedure to be followed where the debtor is a firm, and

(*d*) for the procedure to be followed in the case of estates to be administered in a summary manner.

(3) All rules made under this section shall be published in the Official Gazette and shall on such publication, have effect as if enacted in this Act.

Delegation of power to Official Receivers.

80. (1) The High Court, with the like sanction, may from time to time direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, the Official Receiver shall, subject to the directions of the Court, have all or any of the following powers, namely :—

(*a*) to hear insolvency petitions, to examine the debtor and to make orders of adjudication ;

(*b*) to frame schedules and to admit or reject proofs of creditors ;

(*c*) to grant orders of discharge ;

(*d*) to approve compositions or schemes of arrangement ;

(*e*) to make interim orders in any case of urgency ; and

(*f*) to hear and determine any unopposed or *ex parte* application.

(2) Subject to the appeal to the Court provided for by section 68, any order made or act done by the Official Receiver in the exercise of the said powers shall be deemed the order or act of the Court.

Repeals.

81. (1) The enactment mentioned in Schedule II is hereby repealed to the extent specified in the fourth column thereof.

(2) Where in any enactment or instrument in force at the date of the commencement of this Act, reference is made to Chapter XX (of Insolvent Judgment-debtors) of the Code of Civil Procedure, II of 1884, or to any section of that Chapter, such reference shall, so far as may be practicable, be construed as applying to this Act or to the corresponding section thereof.

SCHEDULE I.

[*See section* 75 (2)].

Decisions and orders from which an appeal lies to the High Court under section 75(2).

Section	Nature of decision or order
4	Decision of questions of title, priority, etc., arising in insolvency.
25	Order dismissing a petition.
26	Order awarding compensation.
27	Order of adjudication.
33	Orders regarding entries in the schedule.
35	Order annulling adjudication.
37	Order declaring the conditions on which the debtor's property shall revert to him on annulment of adjudication.
41	Order on application for discharge.
50	Order disallowing or reducing entries in the schedule.
53	Order annulling a voluntary transfer.
54	Decision that a transfer of property is a preference in favour of a creditor.
69	Conviction and sentence of debtor for an offence under this section.

SCHEDULE II.

ENACTMENT REPEALED.

[*See section* 81.]

Year	No.	Short title	Extent of repeal
1911	VI	The Insolvency Regulation, 1911.	So much as has not been repealed.

MYSORE ACT No. VI OF 1926

THE COTTON DUTIES REPEAL AND COTTON INDUSTRY (STATISTICS) ACT, 1926

(Received the Assent of His Highness the Maharaja on the twenty-seventh day of July 1926.)

An Act to Repeal the Mysore Cotton Duties Act of 1896 *and to provide for the regular submission of returns of quantities of cotton goods manufactured and Cotton Yarn Spun in* [1][*the State of Mysore except Bellary District*].

WHEREAS it is expedient to repeal the Mysore Cotton Duties Act, II of 1896, and notwithstanding such repeal, to provide for the regular submission of returns of the quantities of cotton goods manufactured and cotton yarn spun in [1][the State of Mysore except Bellary District :]

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Cotton Duties Repeal and Cotton Industry (Statistics) Act of 1926.

(2) It extends to the [1][whole of the State of Mysore except Bellary District] and shall come into force on the 25th day of September 1926.

Repeal of Cotton Duties Act.

2. The Mysore Cotton Duties Act, II of 1896, is hereby repealed.

Definitions.

3. For the purpose of this Act, unless there is anything repugnant in the subject or context,—

(*a*) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread) woven, knitted or otherwise manufactured wholly or partly from cotton yarn;

(*b*) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres;

(*c*) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured or

1. See the Mysore Adaptation of Laws Order, 1953.

where cotton yarn is spun, by machinery moved otherwise than by manual labour, and includes every part of such building or place ;

(*d*) " owner " in relation to any mill, includes the managing agent or other principal officer of the mill ; and

(*e*) " prescribed " means prescribed by rules made under this Act.

Delivery of monthly returns of goods and yarn manufactured by mill owners.

4. (1) The owner of every mill shall each month prepare and deliver, or cause to be prepared or delivered, to the prescribed officer a return of all cotton goods manufactured and all cotton yarn spun in the mill during the preceding month by machinery moved otherwise than by manual labour, and shall subscribe a declaration of the truth of the return at the foot thereof.

(2) Save as may be otherwise prescribed, every such return shall state, in respect of each description of goods and of yarn, the quantity manufactured during the period to which the return relates, and shall contain such further information, and be in such form and be subject to such conditions as to verification and otherwise, as may be prescribed.

(3) Every such return shall be delivered to the prescribed officer or posted to his address within seven days after the end of the month to which it relates.

Power to inspect mills and take copies of records.

5. (1) Any officer authorised by the Government by order in writing in this behalf shall have free access at all reasonable times during the working hours to any mill and may at any time with or without notice to the owner, examine and take copies of, or extracts from, the records of the mill for the purpose of testing the accuracy of any return made under section 4, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules made thereunder :

Provided that no officer not specially empowered by the Government in this behalf shall be entitled to inspect any record containing the description or formulæ of any trade process.

(2) All copies and extracts and all information acquired by any officer in the inspection of any mill under this section shall be treated as strictly confidential.

Publication of returns.

6. The Government shall from the returns delivered under section 4, cause to be compiled and published, in such form as they may direct, statements showing for each month the total quantities of goods manufactured and of yarn spun in mills in Mysore State.

Power to make rules.

7. (1) The Government may, by notification in the *Mysore Gazette,* make rules consistent with this Act to carry out the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form of any return required under this Act, the particulars to be contained therein, and the manner in which the return shall be verified ;

(*b*) the nature of the records to be maintained by the owners of mills ;

(*c*) the powers and duties, in regard to inspection of mills under this Act, of the officers authorised to make such inspection ; and

(*d*) any other matter which may be or is to be prescribed.

Penalties.

8. (1) Any person who :—

(*a*) knowingly falsifies any record of manufacture or production kept in a mill, or

(*b*) being required to deliver a return under section 4, knowingly delivers a false return, or

(*c*) omits to make any return required by section 4, or refuses to sign or complete the same, or

(*d*) knowingly does any act, not otherwise punishable under this Act, in contravention of the provisions of any rule made under this Act, shall be punishable with fine which may extend to five hundred rupees.

(2) Any person who discloses any particulars or other information acquired by him in the inspection of any mill under this Act shall be punishable with fine which may extend to one thousand rupees :

Provided that nothing in this sub-section shall apply to the disclosure,

(*a*) of any such particulars or information for the purpose of a prosecution under section 193 of the Indian

Penal Code or under this Act in respect of any return kept or record made for the purposes of this Act, or

(*b*) of any such particulars or information to any person acting in the execution of any duty imposed upon him by this Act where the disclosure is necessary for the purposes of this Act.

Exemption.

9. The Government may, by notification in the *Mysore Gazette*, exempt from the operation of this Act or of any specified provision thereof, any mill or class of mills, or any goods or class of goods, specified in the notification.

Protection for acts done under this Act.

10. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

(Chapter I—Preliminary)

MYSORE ACT No. VII OF 1927

THE MYSORE RELIGIOUS AND CHARITABLE INSTITUTIONS ACT, 1927

(AS AMENDED BY ACTS VIII OF 1935 AND I OF 1937.)

(Received the Assent of His Highness the Maharaja on the Nineteenth day of March 1927).

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Muzrai and other Religious and Charitable Institutions in [1][the State of Mysore except Bellary District,] it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, commencement, extent.

1. (1) This Act may be called the Mysore Religious and Charitable Institutions Act, 1927.

(2) It shall come into force from 1st April 1927.

(3) It extends to the [1][whole of the State of Mysore except Bellary District:]

Provided that the Government may, by notification in the Official Gazette, direct that this Act, or any part thereof, shall not extend to any specified Religious or Charitable Institution or to any specified class of such institutions.

Definitions.

2. In this Act, unless there be anything repugnant in the subject or context:—

(1) "Religious or Charitable Institution" includes an endowment for the carrying out of any religious or charitable object.

(2) "Muzrai Institution" means and includes:—

(*i*) every *Matha,* temple, mosque or other place of worship or religious service, every chatra or house of feeding or rest for travellers with or without charge, or other institution of a religious or chari-

1. See the Mysore Adaptation of Laws Order, 1953.

table nature, which is now actually in the sole charge of Government or for the support of which any monthly or annual grant in perpetuity is made from the public revenues, or an inam is granted and is recognised and registered as a devadaya or dharmadaya grant;

(*ii*) every institution of a religious or charitable nature which, under the provisions of this Act, may be taken under the sole management of Government so long as it remains under such management.

(3) "Muzrai Officer" shall mean the Deputy Commissioner of the District in which any religious or charitable institution or the whole or any part of the property thereof is situate, and shall include an Assistant Commissioner in charge of a taluk or taluks to whom the power of a Muzrai Officer under any of the sections of this Act may be delegated by the Government in respect of the taluk or taluks comprised in his charge.

CHAPTER II.

CONTROL AND MANAGEMENT OF MUZRAI INSTITUTIONS.

Chief Controlling authority.

3. The Chief Controlling Authority in all matters connected with Muzrai Institutions is vested in the Government.

Muzrai Commisioner. His duties and powers.

4. The Government may appoint an officer to be called the Muzrai Commissioner and may, from time to time, impose and confer upon him such duties and powers of appeal, superintendence and control, as they may think fit, in respect of all or any particular class of Religious and Charitable Institutions.

Deputy Commissioners, Assistant Commissioners and Amildars. Their duties and powers.

5. Subject to such rules and conditions as the Government may prescribe, the Deputy Commissioner of the District shall be the immediate controlling authority in respect of all the Muzrai institutions in the district and subject to his authority the Assistant Commissioner in charge of a Revenue Sub-Division or the Amildar of a taluk may perform such duties and exercise such powers as may be imposed and conferred upon them by any special or general orders of the Government.

(Chapter II—Control and Management of Muzrai Institutions)

Appointment of Dharmadarsis and Nazarins.

6. The Government may appoint Dharmadarsis or Nazarins of wakfs, as the case may be, to manage the affairs of one or more Muzrai Institutions and, by rules framed in this behalf, determine the manner of selection, fix the term of office and regulate the powers and duties of such Dharmadarsis and Nazarins.

The Government may delegate to the Muzrai Commissioner or the Deputy Commissioner, the power of appointing Dharmadarsis or Nazarins of wakfs in respect of any institution or class of institutions.

Appointment of committee for the management of Muzrai Institutions.

7. In addition to or in lieu of Dharmadarsis and Nazarins appointed under section 6, the Government may, subject to such rules as they may frame in this behalf, appoint a Committee of persons chosen, by election or otherwise, for the management of one or more Muzrai Institutions.

Transfer of managements of Muzrai Institutions to Local Authority.

8. Notwithstanding anything to the contrary contained in any Act or other enactment in force in Mysore, the Government may also at any time, with the consent of a Local Authority, transfer to such Authority the management of any Muzrai Institution situated within the local limits of its jurisdiction, subject to such limitations as the Government may prescribe in this behalf. In every such case the funds provided for the management of such institution shall be placed at the disposal of the Local Authority concerned.

Unauthorized alienations or transfer of Inam land granted to Muzrai Institution.

9. (1) No alienation or transfer by way of sale, gift, mortgage or otherwise of any Inam land granted by the Government to any Muzrai Institution for its upkeep or for the maintenance of any person rendering service in connection therewith and no act purporting to create any interest adverse to such institution in respect of such land, shall be valid unless it is authorised by the general or special orders of the Government.

(2) No lease of a property belonging to a Muzrai Institution for a term exceeding five years shall be valid unless previously approved by the Government or by such officer as may be empowered by the Government in this behalf.

(*Chapter II—Control and Management of Muzrai Institutions*)

Muzrai Officer's powers in cases of unauthorized alienation or transfer.

10. Whenever any alienation, transfer or other act in respect of Inam lands which is not valid under the provisions of section 9, comes to the knowledge of a Muzrai Officer, he may after such enquiry as he may deem necessary, issue notice to the alienee or the party in possession to restore such lands to the institution to which they belong within six months from the date of service of such notice and in default of compliance, the Muzrai Officer may summarily resume and restore such lands to the said institution :

Provided that alienations made prior to the 31st day of January 1853 shall be dealt with in accordance with the Inam Rules contained in Chief Commissioner's Notification No. 266, dated the 17th November 1877 :

Provided further that where a person has had adverse possession of a property for a period of twelve years before the passing of this Act, the Muzrai Officer shall cancel the inam tenure and impose the full assessment due to the Government under the provisions of the Land Revenue Code or cancel the tenure and direct the assessment recovered to be handed over for the benefit of the institution concerned.

Suits on behalf of Muzrai Institutions.

11. Whenever it is deemed necessary to institute a suit on behalf of any Muzrai Institution, the Muzrai Officer may file a suit himself or authorise any two or more Dharmadarsis, Nazarins or other persons having an interest in such institution to do so and such suit shall be entertained and disposed of by the Civil Court having jurisdiction over the subject matter of the suit as if it was filed under the provisions of Order XXXI of the Civil Procedure Code.

Arrears of rent, etc., due to a Muzrai Institution recoverable as arrears of land revenue.

12. Arrears of rent or revenue due to a Muzrai Institution in respect of property belonging to that institution may be recovered by the officers empowered to recover revenue due to the Government and in the same manner as arrears of land Revenue due to the Government :

Provided that the said arrears of rent or revenue shall not relate to a period more than six years prior to the institution of proceedings under this Act.

(Chapter III—Public, Religious and Charitable Institutions other than Muzrai Institutions)

CHAPTER III.

PUBLIC, RELIGIOUS AND CHARITABLE INSTITUTIONS OTHER THAN MUZRAI INSTITUTIONS.

Reference by the Muzrai Officer to District Judges in case of dispute.

13. Whenever a dispute arises as to whether any charitable or religious trust has been actually created in respect of any institution, the Muzrai Officer may, with the sanction of the Government, make a reference to the Court of the District Judge in whose jurisdiction the institution or the greater part of the property thereof is situated.

Management of a Muzrai Institution by Government.

14. The Government may undertake either temporarily or permanently the management of a public, religious or charitable institution in respect of which a trust is created—

(*a*) When the creator of the trust so desires, or

(*b*) When the person in actual management or appointed manager or trustee,

(*i*) disclaims, or

(*ii*) dies, or

(*iii*) is for a continuous period of six months absent from Mysore without making proper arrangement for its management, or

(*iv*) leaves Mysore for the purpose of residing abroad, or

(*v*) is declared an insolvent, or

(*vi*) desires to be discharged from the trust, or

(*vii*) refuses to act in the trust, or

(*viii*) becomes in the opinion of the principal civil court of original jurisdiction, unfit or personally incapable to act in the trust, or

(*ix*) accepts an inconsistent trust,

and there is no custom, usage, or provision in the instrument of trust or express or implied reservation by the creator of the trust for the management of the trust under such circumstances.

Disposal of the references.

15. The letter of reference shall be registered and disposed of by the Court in the same manner as a suit between the Muzrai Officer as plaintiff and the parties in

possession of the property or opposing the contention of the Muzrai Officer as defendants except that the plaintiff shall not be liable to pay any Court fees in respect of the proceedings following on the reference.

Award and apportionment of cost.

16. In disposing of references and suits under the foregoing section, the Court shall have full power to apportion and award costs either against the parties or against the estate in dispute.

Enquiry regarding mismanagement of the property of a religious or charitable institution.

17. When it is brought to the notice of the Muzrai Officer that any religious or charitable institution dedicated for the benefit of the public or a defined section of the public or any property pertaining thereto is being grossly mismanaged, he may institute an enquiry into the truth of the allegations against the persons in possession and management of the property or the institution.

Order by Muzrai Officer in such cases.

18. If it is proved that there has been gross mismanagement of the institution or of any property pertaining thereto or any misapplication or misappropriation of any part of the property, or any breach of trust in respect thereof, the Muzrai Officer may, with the previous sanction of the Government,

(1) take the institution under the management of Government;

(2) order that the property which has been mismanaged or misappropriated shall be delivered back either to the institution or to the possession of the Government on behalf of the institution;

(3) obtain security for the proper performance of the trust or management of the property;

(4) frame a scheme for the proper management of the institution or management of its property and the application thereof; and

(5) pass such other ancillary or necessary orders as the case may require in accordance with justice and equity.

Procedure in case of wrongful alienation of property of religious or charitable institution.

19. (1) Where property belonging to a religious or charitable institution has been wrongfully alienated or transferred by way of sale, barter, mortgage, lease or otherwise the Muzrai Officer may, within six years from the date of such alienation or transfer, give notice to the

alienee or transferee and hold a summary enquiry in accordance with the provisions of Chapter XII of the Mysore Land Revenue Code and direct that possession of such property be restored to the institution or that the Government assume possession thereof on behalf of the institution;

(2) When property belonging to a religious or charitable institution is taken possession of by the Government under sub-section (1) it shall be subject to the same incidents as property belonging to a Muzrai Institution so long as it continues to be in the possession of Government.

Failure of the object of the trust.

20. Where the whole or part of the objects of religious or charitable trust has failed, the Muzrai Officer may, subject to such general rules or special orders as the Government may have issued, after notification in the Official Gazette and hearing such parties as may appear in an enquiry, pass an order directing that the property or the proceeds thereof in respect of which the object has failed, may be utilised for some object of a similar nature, and may frame a scheme for administration thereof.

Suit by a person aggrieved by an order under sections 18, 19 or 20.

21. Any person who is aggrieved by an order of the Muzrai Officer passed under sections 18, 19 or 20 may, within six months from the date on which such order is communicated to him, file a suit in the Court of the District Judge, in whose jurisdiction the greater part of the property is situate, for cancellation of such order, making the Muzrai Officer one of the defendants.

If no such suit has been filed or if it has been filed and dismissed by the Court, the Muzrai Officer, may, after the lapse of six months from the date of the communication of his original order or after the dismissal of the suit as the case may be, execute his order and may exercise for that purpose all the powers of a Civil Court in executing decrees:

Provided that in cases in which the property to be disposed of under section 20 exceeds Rs. 3,000 in value or the annual income thereof is more than Rs. 300 in value, the sanction of Government shall have been obtained for the order.

(*Chapter IV—Mathas and Similar Institutions*)

Power to make rules for the maintenance of accounts, etc., by persons in charge of religious and charitable institutions.

22. The Government shall have power to make rules directing that persons in charge of religious or charitable institutions shall—

(*a*) keep regular accounts of income and expenditure,

(*b*) submit such returns and supply such information as may be necessary,

(*c*) allow such inspection and verification as may be necessary ;

and may, by said rules, prescribe a penalty not exceeding Rs. 100 for any infraction thereof and the method by which it may be enforced.

Investment of trust money.

23. All moneys belonging to a public, religious or charitable institution and not required for immediate use shall be invested in the Government Savings Bank, or in any of the following securities, and in no others, *viz.*:—

(*a*) In promissory notes, debentures, stock or other securities of the Government of Mysore or of the Government of India or in securities guaranteed by the Government of Mysore ;

(*b*) In stock or debentures of, or shares or as deposits in, Railway or other Companies or Co-operative Societies approved by the Government ;

(*c*) In any other security expressly authorised by the Instrument of Trust or approved by the Government ;

(*d*) On the purchase or on the first mortgage of immovable property situated in [1][the State of Mysore except Bellary District ;] provided that in the latter case the property is not a lease-hold for a term of years and that the value of the property exceeds by one-half, or if it consists of buildings exceeds by three-fourths the mortgage money.

CHAPTER IV.

Mathas and Similar Institutions.

Exemption of Mathas from the operation of the foregoing provisions.

24. The provisions of Chapters II and III shall not apply to Mathas and other institutions of a similar nature or to the property belonging to them which are in the

1. See the Mysore Adaptation of Laws Order, 1953.

possession of Mathadipathis or other persons entitled by law or general or particular usage to exercise powers of management or ownership.

When management of Mathas may be assumed by Government.

25. The Government may take over the possession and management of the property of any Matha or other institution of a similar nature,

(1) When the Mathadipathi or the head of such other institution voluntarily applies for such help and places the institution or its property under the management of the Government;

(2) When he is dead or has left the country and has not been heard of for more than seven years and has not made legal and satisfactory arrangements for the carrying on of the ordinary business of the institution and there is no successor duly appointed, according to law or custom applicable to succession to the office;

(3) When he is a minor without a duly appointed guardian, fit and willing to act as such, or is by reason of physical or mental infirmity unable to manage the affairs of the institution :

Provided that such management shall cease—

(1) on the termination of the period of the agreement,

(2) when a successor is duly appointed and is competent to manage the property,

(3) when the minority or other disqualification mentioned above terminates.

[1][Provided further that on the cessation of such management the Government may, while giving back the management of the property, impose such restrictions for such period as the Government may deem fit, in the interest of the Institution.]

Enquiry by a Committee into allegation of mismanagement.

26. When on complaint made or information furnished in writing by disciples or other persons interested in any Matha or other similar institution, the Government has reason to believe that the Mathadipathi or the head of such other institution has been grossly mismanaging the property of the institution or has alienated or is attempting to alienate the whole or any part of such property for

1. Added by Act I of 1937.

improper purposes, the Government may order an enquiry by a Committee of not less than three persons, one at least of whom shall, whenever possible, be a disciple of or a person interested in, the Matha or other institution as the case may be, provided he is not a whole-time servant of the Government.

Report of the Committee and orders of Government thereon.

27. On the completion of the said enquiry the Committee shall submit a report of the result thereof to the Government; and the Government may thereupon take over the management of the institution or pass such orders as may be deemed fit concerning the management of the affairs and property of the institution.

Powers of Government regarding Institutions under their management.

28. When any Matha or other similar institution has come under the management of the Government under the provisions of this chapter, it shall be competent to the Government to exercise all the powers possessed by the Mathadipathi or head of such other institution for the management of the institution and its property including power to arrange for the proper performance of the customary religious and charitable services.

Application of income of Institutions under Government management.

29. Whenever any Matha or other similar institution has come under the management of the Government, due provision shall be made from the income of the institution for—

(1) the proper maintenance of the Mathadipathi or the head of such other institution and his establishment, if any,

(2) the performance of the customary religious and charitable services, and

(3) the preservation and proper management of the property belonging to the Matha or other similar institution,

and it shall be competent for the Government to utilise the surplus income of the institution on object of charity or for the encouragement and the spread of religious instruction according to the tenets of the institution.

Unauthorized alienation of Inam lands granted to the Institution by Government.

30. Where any inam land is granted by the Government for the upkeep of any Matha or other similar institution the Mathadipathi or the head of such other institution shall not alienate such land and all such alienations unless

made with the previous sanction of Government, shall be null and void.

In cases of alienation in contravention of the foregoing provision, the Muzrai Officer may, after enquiry, issue notice to the alienee or party in possession to restore the lands to the Matha or other similar institution to which they belong within six months from the date of service of the said notice and in default of compliance the lands may be summarily resumed by him and restored to the Matha or other similar institution:

Provided that alienations made prior to the 31st day of January 1853 shall be dealt with in accordance with the Inam Rules contained in the Chief Commissioner's Notification No. 266, dated the 17th November 1877.

Application of the chapter to similar religious institutions.

31. The provisions of this chapter shall apply to religious institutions presided over by sajjadas and other institutions of a similar nature.

CHAPTER V.

PUJARIES AND OTHER HEREDITARY SERVANTS OF MUZRAI INSTITUTIONS.

Enquiry into the claims to the office of a Pujari or other servant of a Muzrai Institution.

32. When there is a dispute about the office of a Pujari, or other servant of a Muzrai institution which by law or usage descends by hereditary right, the Amildar or the Revenue Sub-Division Officer of the taluk in which the institution is situated, as the Muzrai Officer may direct, shall hold an enquiry in the presence of the parties interested and record statements and evidence relevant to the case.

Decision by Deputy Commissioner or Assistant Commissioner.

33. The Muzrai Officer shall, on receipt of the record of enquiry, make such further enquiry as he thinks necessary and decide the case on its merits.

No temple office or service in a Muzrai Institution to be hereditary, except under certain circumstances.

34. No office or service in a Muzrai Institution shall be deemed to descend by hereditary right unless it has been conferred or recognised originally with an express stipulation to that effect in writing by a competent authority or has been held successively by three generations of the same family in succession in due legal course.

(Chapter VI—Miscellaneous)

Appointment of a Pujari or other officer in a Muzrai institution.

35. Where there is no claimant entitled to succeed to the office of a Pujari or other office in a Muzrai Institution, the Muzrai Officer may appoint any other person competent for such office.

Removal of a Pujari at the instance of Bhaktas.

36. Where a majority of not less than three-fourths of the devotees of a Muzrai temple resident in the village or town in which the temple is situated object to the employment as Pujari of a person claiming by hereditary right, such person shall be removed from office, provided that the objectors pay to the claimant such amount by way of compensation as may be fixed by the Muzrai Officer.

CHAPTER VI.

MISCELLANEOUS.

Mode of enquiry referred to in sections 10, 17, 20, 26 and 30.

37. The enquiry referred to in sections 10, 17, 20, 26 and 30 shall be conducted in manner prescribed for a formal enquiry under the Mysore Land Revenue Code, after issue of notices to the parties interested and the Muzrai Officer or other person or persons holding enquiry shall have all the powers of a Revenue Officer empowered to conduct such formal enquiry.

Appeal.

38. (1) Every order passed under this Act by a Muzrai Officer which is not liable to be set aside by a suit filed under any of the provisions of this Act, shall be subject to appeal to the Muzrai Commissioner:

Provided that when the order is passed by an Assistant Commissioner exercising the powers of a Muzrai Officer, it will be appealable in the first instance to the Deputy Commissioner.

[1][(2) An appeal will lie to the Government against every order passed by the Muzrai Commissioner, provided that no such appeal shall lie to the Government from an appellate decision passed by the Muzrai Commissioner except on a point of law or usage having the force of law.]

(3) The Government may at any stage, withdraw any appeal or proceeding pending before the Muzrai Commis-

1. Substituted by Act VIII of 1935.

sioner and dispose of the same or re-transfer the same for disposal to the Muzrai Commissioner.

(4) The Government may transfer to the Muzrai Commissioner for disposal all or any of the appeals that may be pending before them when this Act comes into force.

(5) No appeal shall be brought after the expiration of thirty days if the decision or order complained of have been passed by an officer inferior in rank to a Deputy Commissioner, nor after the expiration of ninety days in any other case.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Revision.

39. The Government, or the Muzrai Commissioner or any Muzrai Officer may call for and examine the records of any enquiry or the proceeding of any officer subordinate to it or him for the purpose of satisfying as to the legality or propriety of any decision or order passed, and as to the regularity of proceedings of such officer.

If, in any case, it shall appear to the Government or to such officer as aforesaid that any decision or order or proceedings should be modified, annulled or reversed, the Government or such officer may pass such order thereon as may be deemed fit.

Bar of jurisdiction of Civil Courts in cases falling under the Act.

40. In all matters in which a Muzrai Officer, the Muzrai Commissioner or the Government, has power to pass any order or to take any action under this Act, Civil Courts shall exercise jurisdiction only to the extent allowed by this Act.

Suit under section 92, Civil Procedure Code not barred.

40A. Any order passed under this Act or the rules issued thereunder by a Muzrai Officer or by the Government shall not bar a suit under the provisions of section 92 of the Code of Civil Procedure, 1911.

[1][**40B.** No suit or other proceeding shall lie against any person for anything done or intended to be done, in good faith, under this Act or under any rule made thereunder.]

1. Inserted by Act I of 1937.

(*Chapter VI—Miscellaneous*)

Rules.

41. Government may frame rules not inconsistent with this Act—

(1) defining the powers and duties of Amildars and Assistant Commissioners in charge of the Revenue Sub-Divisions in respect of Muzrai Institutions, in their respective jurisdictions,

(2) defining the powers and duties of Dharmadarsis and Nazarins of wakfs,

(3) regulating the appointment of Muzrai servants to the various institutions and defining their duties,

(4) prescribing the scale of expenditure of the Muzrai Institutions,

(5) regulating the investment of surplus funds of Muzrai Institutions, and

(6) generally to carry out the purposes of this Act.

42. The Mysore Muzrai Act, VI of 1913, is hereby repealed.

THE MYSORE LAND RECORD OF RIGHTS ACT, 1927.

ARRANGEMENT OF SECTIONS.

Sections.

1. (1) Short title.
(2) Extent.
2. Modification of the provisions of the Land Revenue Code in areas to which this Act is extended.
3. Definitions.
4. Preparation and maintenance of Record of Rights.
5. Acquisition of rights to be reported.
6. Register of Mutations and Register of Disputed Cases.
7. Obligation to furnish information.
8. Penalty for neglect to afford information.
9. Division of survey numbers into sub-divisions.
10. Requisition of assistance in preparation of maps.
11. Certified copy of record to be annexed to plaint or application.
12. Refusal of assistance under section 97.
13. Presumption of correctness of entries in Record of Rights and Register of Mutations.
14. Bar of suits.
15. Appeal.
Revision.
16. Record of rights and Register of Mutations open to inspection and extracts and copies to be given.
17. Rules.
18. Penalty for breach of rules.

MYSORE ACT No. X OF 1927.

THE MYSORE LAND RECORD OF RIGHTS ACT, 1927.

(*As amended by Acts VIII of* 1931 *and IX of* 1951.)

(Received the assent of His Highness the Maharaja on the 13th day of April 1927.)

An Act to provide for the Preparation and Maintenance of a Record of Rights in the lands of the [1][*State of Mysore except Bellary District.*]

WHEREAS it is expedient to provide for the preparation and maintenance of a record of rights in the lands of the [1][State of Mysore except Bellary District] in addition to any registers prescribed by or under the Mysore Land Revenue Code, 1888, and to amend the Code of Civil Procedure, and make other provisions in relation thereto, it is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Mysore Land Record of Rights Act, 1927.

Extent.

(2) The Government may, by notification in the *Mysore Gazette,* direct that this Act or any specified provisions thereof shall apply to any specified local area or with reference to any lands or any class of villages or lands or generally, and from such date as may be specified. Provided that the provisions of sections 11 and 13 shall apply in respect of a village only after the expiry of two years from the date of the notification in the *Mysore Gazette* referred to in sub-section (2) of section 4.

Modification of the provisions of the Land Revenue Code in areas to which this Act is extended.

2. Where the provisions of this Act have been applied, such of the provisions of the Mysore Land Revenue Code or any other enactment as are inconsistent with the provisions of this Act shall be deemed to be modified to the extent to which they are so inconsistent.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the words "Revenue Officer," "Deputy Commissioner," "Amildar," "Deputy Amildar," "Alienated," "Taluk," and "District," shall be deemed to have the

1. See the Mysore Adaptation of Laws Order, 1953.

meaning respectively assigned to them by the Mysore Land Revenue Code, 1888, as from time to time amended ;

(*b*) " Certified copy " or " Certified extract " means a copy or extract, as the case may be, certified in the manner prescribed by section 76 of the Indian Evidence Act, 1872 ;

(*c*) " Chavadi " includes in any village in which there is no Chavadi, such place as the Deputy Commissioner may direct shall be deemed to be the Chavadi for the purposes of this Act ;

(*d*) " to hold land " or to be a " land-holder " or " holder " of land means to be lawfully in possession of land, whether such possession is actual or not ;

(*e*) " holding " means a portion of land held by a holder ;

(*f*) The term " joint holders " or " joint occupants " means holders or occupants who hold land as co-sharers, whether as co-sharers in a family undivided according to Hindu Law or otherwise, and whose shares are not divided by metes and bounds ; and where land is held by joint holders or joint occupants, " holder " or " occupant " as the case may be, means all of the joint holders or joint occupants ;

(*g*) " Landlord " means a lessor ;

(*h*) " Land records " means records maintained under the provisions of, or for the purposes of, this Act, and the Land Revenue Code ;

(*i*) " occupation " means possession ;

(*j*) " to occupy land " means to possess or take possession of land ;

(*k*) " Occupant " means a holder in actual possession of unalienated land, other than a tenant ; provided that where the holder in actual possession is a tenant, the landlord or superior landlord, as the case may be, shall be deemed to be the occupant ;

(*l*) " Occupancy " means a portion of land held by an occupant ;

(*m*) " Sub-Taluk " means a defined portion of a Taluk placed under the charge of a Deputy Amildar ;

(*n*) " Superior holder " means a land-holder entitled to receive rent or land revenue from other land-holders (hereinafter called " inferior holders "), whether he is accountable or not for such rent or land revenue or any part thereof, to Government ; provided that where land has been granted free of rent or land revenue, subject to

the right of resumption, in certain specified contingencies, by a Jahgirdar, Inamdar, or such other holder of alienated land whose name is authorisedly entered as such in the land records, such Jahgirdar, Inamdar or holder shall, with reference to the grantee, be deemed to be the superior holder of land so granted by him and the grantee shall, with reference to the grantor, be deemed to be the inferior holder of such land ;

(*o*) " survey number " means a portion of land of which the area and assessment are separately entered, under an indicative number in the land records ;

(*p*) " sub-division of a survey number " means a portion of a survey number of which the area and assessment are separately entered in the land records under an indicative number subordinate to that of the survey number of which it is a portion ;

(*q*) " tenant " means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession ; but does not include a lessee holding directly under Government ;

(*r*) " village " includes a town or city and all the land belonging to a village, town or city.

Preparation and maintenance of Record of Rights.

4. (1) There shall be prepared as soon as conveniently may be and shall thereafter be maintained in every village to which the provisions of this Act have been applied a record of rights in all lands belonging thereto, which shall include the following particulars, namely :—

(*a*) the names of all persons (other than tenants) who are holders, occupants, owners or mortgagees of the land or assignees of the rent or revenue thereof ;

(*b*) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto ;

(*c*) the rent or revenue (if any) payable by or to any of such persons ;

(*d*) such other particulars as the Government may prescribe by rules made in this behalf :

Provided that the said particulars shall be entered in the record of rights with respect to *kadim* and other perpetual tenancies and also with respect to tenancies of any other classes to which the Government may by notification in the *Mysore Gazette,* direct that the provisions of this section shall apply in any local area or generally.

(2) When in respect of any village the preparation of the record of rights referred to in sub-section (1) is completed, such completion shall be notified in the *Mysore Gazette,* and may also be published in such other manner as may be prescribed by Government.

Any person affected by an entry in such record may within a period of two years from the date of such notification, apply for rectification of such entry to such officer as Government may empower in this behalf.

The order of such officer shall be subject to appeal as may be provided for under rules prescribed in this behalf.

Acquisition of rights to be reported.

5. [1][After the expiry of a period of six months from the date of a notification issued under sub-section (2) of section 1,] any person acquiring, by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant under the tenancies referred in the proviso to sub-section (1) of section 4 of the land, or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the officer appointed in this behalf within three months from the date of such acquisition, and the said officer shall at once give a written acknowledgment of the receipt of such report to the person making it :

Provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the officer appointed in this behalf :

Provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the officer appointed in this behalf.

Explanation I.—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge within the meaning of section 100 of the Transfer of Property Act, 1918.

Explanation II.—A person in whose favour a mortgage is discharged or extinguished, or lease determines, acquires a right within the meaning of this section.

Register of Mutations and Register of Disputed Cases.

6. (1) The officer appointed in this behalf shall enter in a register of mutations every report made to him under section 5 and shall also make an entry therein respecting

1. Substituted by Act VIII of 1931.

the acquisition of any right of the kind mentioned in sub-section (1) of section 5 which he has reason to believe to have taken place and of which a report has not been made to him under the said section.

(2) Whenever an officer appointed in this behalf makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavadi, and shall give written intimation to all persons appearing from the record of rights or register of mutations, to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) Should any objection to an entry made under sub-section (1) in the register of mutations be made either orally or in writing to the officer appointed in this behalf, it shall be the duty of the said officer to enter the particulars of the objection in a register of disputed cases.

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed by rules made by the Government in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the Government in this behalf: provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(6) Entries in the register of mutations shall be tested and if found correct or after correction, as the case may be, shall be certified by a revenue officer of rank not lower than that of a Taluk Sheristedar.

(7) The provisions of this section shall apply in respect of *kadim* and other perpetual tenancies and also in respect of any tenancies mentioned in a notification under the proviso to sub-section (1) of section 4; but the provisions of this section shall not apply in respect of other tenancies which shall be entered in a register of tenancies in such manner and under such procedure as the Government may prescribe by rules made in this behalf.

Obligation to furnish information.

7. (1) Any person whose rights, interests or liabilities are required to be or have been entered, in any record or register under this Act shall be bound, on the requisition of any revenue officer engaged in compiling or revising the record or register, to furnish or produce

for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power :

Provided that no such requisition shall be made by a village accountant unless it has been previously countersigned by a revenue officer of such rank as may be prescribed by Government in this behalf.

(2) A revenue officer to whom any information is furnished or before whom any document is produced in accordance with a requisition under sub-section (1) shall at once give a written acknowledgment thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date thereof.

Penalty for neglect to afford information.

8. Any person neglecting to make the report required by section 5 or furnish the information or produce the documents required by section 7 within the prescribed period shall be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five rupees, which shall be leviable as an arrear of land revenue.

Division of survey numbers into sub-divisions.

9. Notwithstanding the provisions of section 109 of the Land Revenue Code—

(1) Survey numbers may from time to time and at any time be divided into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

(2) The division of survey numbers into sub-divisions and the fixing of the assessment of the sub-divisions shall be carried out and from time to time revised in accordance with rules made by the Government in this behalf :

Provided that [1][the rate of assessment per acre applicable to] any survey number or sub-division shall not be enhanced during any term for which such assessment may have been fixed under section 112 of the Land Revenue Code unless such assessment is liable to alteration under section 48 of the same Act.

(3) The area and assessment of such sub-divisions shall be entered in such land records as the Government may prescribe in this behalf.

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1. Substituted by Act VIII of 1931.

Requisition of assistance in preparation of maps.

10. Subject to rules made in this behalf by the Government—

(*a*) Any revenue officer may, for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this Act, exercise any of the powers of a survey officer under sections 107 and 108 of the Mysore Land Revenue Code except the power of assessing the cost of hired labour under section 108.

(*b*) Any revenue officer of rank not lower than that of an Assistant Commissioner or of a survey officer may assess the cost of the preparation or revision of such map or plan and all contingent expenses including the cost of clerical labour and supervision, on the lands to which such maps or plans relate, and such costs shall be recoverable as a revenue demand.

Certified copy of record to be annexed to plaint or application.

11. (1) The plaintiff or applicant in every suit or application as hereinafter defined relating to land shall annex to the plaint or application a certified copy of any entry in the record of rights, register of mutations or register of tenancies relevant to such land.

[1][(2) If the plaintiff or applicant fails to comply with the provisions of sub-section (1) and if he, on being required by the Court to produce the certified copy within a reasonable time to be fixed by the Court, or within such further time as may, from time to time, be allowed by the Court, fails to do so, the plaint or application shall be rejected; but the rejection thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject matter, with a certified copy annexed.]

(3) After the disposal of any case in which a certified copy of any such entry has been recorded, the Court shall communicate to the Deputy Commissioner any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the record. The Deputy Commissioner shall in such case cause the entry to be corrected in accordance with the decree or decision of the Court, so far as it adjudicates upon any right required to be entered in the record of rights, register

1. Substituted by Act IX of 1951.

of mutations or register of tenancies. The provisions of this sub-section shall apply also to an appellate or revisional Court, provided that, in the case of an appellate or revisional decree or order passed by the High Court, the communication shall be made by the Court from which the appeal lay or the record was called for.

(4) In this section—

(*a*) "Suit" means a suit to which the provisions of the Code of Civil Procedure apply ;

(*b*) "Application" means an application,

(i) for the execution of a decree or order in a suit ;

(ii) for the filing of an agreement stating a case for the opinion of the Court under the Code of Civil Procedure ;

(iii) for the filing of an agreement to refer to arbitration under paragraph 17 of the second Schedule to the said Code ;

(iv) for the filing of an award under paragraph 20 of the said Schedule ;

(v) of any other kind to which the Government may by notification in the *Mysore Government Gazette,* direct that this section shall apply ;

(*c*) an application shall be deemed to relate to land if the decree or other matter, with respect to which the application is made, relates to land ;

(*d*) a suit, decree or other matter relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit, decree or other matter relating to the rent or tenancy of land.

Refusal of assistance under section 97.

12. Notwithstanding anything in section 97 of the Land Revenue Code, the Deputy Commissioner shall refuse assistance to any superior holder under the said section, if his claim to such assistance is not supported by an entry or entries duly made in the record of rights, register of mutations or register of tenancies.

Presumption of correctness of entries in record of rights and register of mutations.

13. An entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Bar of suits.

14. No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made in any record or register that is maintained

under this Act, or to have any such entry omitted or amended.

Appeal.

15. Any person affected by an order made under sub-section (4) or an entry certified under sub-section (6) of section 6 [1][or the division of a survey number into sub-divisions or the assessment of such sub-divisions under sub-sections (1) and (2) of section 9] may [1][within a period of one month from the date of communication of the order to the party] appeal to such officer as may be empowered by Government in this behalf and his decision shall be final.

Revision.

The Deputy Commissioner of a district, may, of his own motion or on application of a party, call for and examine any records made under sections 4 and 6 and pass such orders as he may deem fit; provided that no order shall be passed except after hearing any party who will be adversely affected thereby.

Record of rights and register of mutations open to inspection and extracts and copies to be given.

16. Subject to such rules and the payment of such fees as the Government may from time to time prescribe in this behalf, the record of rights and register of mutations shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom or certified copies thereof, shall be given to all persons applying for the same:

Provided that applications for such certified extracts or certified copies may be made to, and such certified extracts or certified copies may be given by, either the officer appointed in this behalf or the Amildar of the Taluk, or the Deputy Amildar of the Sub-Taluk in which the village is included.

Rules.

17. (1) Government may, by notification published in the *Mysore Gazette,* make rules not inconsistent with the provisions of this Act to carry out the purposes and objects thereof and for the guidance of all persons in matters connected with the enforcement of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be made—

(*a*) regulating the division of survey numbers into sub-divisions and the fixing of the assessment of sub-divisions under section 9;

1. Inserted by Act VIII of 1931.

(*b*) regulating the construction, laying out, maintenance and repair of boundary marks ;

(*c*) regulating the compilation, maintenance and revision of the record of rights and the register of mutations, disputed cases and tenancies, and prescribing the forms in which they are to be compiled and the officers by whom the said records and registers are to be tested and revised ;

(*d*) regulating the exercise by officers appointed in this behalf and revenue officers of the powers of a survey officer and the assessment of costs and expenses under section 10 ;

(*e*) prescribing the mode, form and manner in which appeals under the Act shall be drawn up and presented ;

(*f*) prescribing the records, registers, accounts, maps, and plans to be maintained for the purposes of this Act and the manner and forms in which they shall be prepared and maintained.

(3) The power to make rules under this section, shall be subject to the condition of previous publication.

Penalty for breach of rules.

18. It shall be lawful for the Government in making any rule under section 17 to prescribe that any person committing a breach of the same shall, on conviction by a Magistrate, be punished with fine not exceeding five hundred rupees, in addition to any other consequences that would ensue from such breach.

THE MYSORE AGRICULTURISTS' RELIEF ACT, 1928.

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(Chapter I—Preliminary)

MYSORE ACT No. XVIII OF 1928.

THE MYSORE AGRICULTURISTS' RELIEF ACT, 1928.

(As amended by Acts VII *of* 1935, II *of* 1937 *and* 13 *of* 1953.)

(Received the assent of His Highness the Maharaja on the 14th day of July 1928.)

Preamble.

WHEREAS it is expedient to relieve the agricultural classes in [1][State of Mysore except Bellary District] from indebtedness; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, commencement.

1. This Act may be called the Mysore Agriculturists' Relief Act, 1928; and it shall come into force on the first day of January 1929.

Extent.

It extends only to such districts or parts of districts as may be notified by Government from time to time in the Official Gazette and Government may, by a like notification, exclude from its operation any area to which it had been extended.

Construction.

2. In construing this Act, unless there is something repugnant in the subject or context:—

First.—" Agriculturist " shall be taken to mean a person who ordinarily engages in agriculture in the area to which this Act applies for the time being, provided that his yearly income from sources other than agriculture does not exceed [2][Rs. 1,000], and that his aggregate income from all sources does not exceed [2][Rs. 2,000].

Explanations.

(*a*) A person who is a female or minor member of the family of an agriculturist as above defined and who has, as such, a right either to be maintained by him or to participate in the family agricultural income shall be deemed to be an agriculturist for the purposes of this Act.

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1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act 13 of 1953.

(*b*) A person otherwise coming within the definition shall not be considered to be an agriculturist in reference to a certain transaction unless he or the person through whom he claims was also an agriculturist, as hereby defined, at the time when the transaction took place.

(*c*) A question of status raised and decided or withdrawn at any stage of the suit, or not raised at all though it could have been raised cannot be re-opened or raised after the final decree in the suit, in proceedings connected with the execution of that decree.

(*d*) An assignee of Government revenue or a mortgagee as such is not an agriculturist within this definition.

Second.—"Money" shall be deemed to include agricultural produce, implements and stock.

Third.—"Standing crops" shall include crops of all sorts attached to the soil, and leaves, flowers and fruits upon, and juice in, trees and shrubs.

CHAPTER II.

Scope of the Act and Jurisdiction of Courts.

Application of this Act.

3. The provisions of this Act shall apply to—

(i) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and the defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(ii) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money due on contracts other than the above and suits for rent in cases where the defendant, having sold or mortgaged a land, has taken it on lease from the vendee or the mortgagee;

(iii) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure and sale, when the defendant, or any one of the defendants, is an agriculturist; and

(iv) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs any one of the plaintiffs, is an agriculturist.

No appeal from finding on the issue of status.

4. (1) When in any suit under section 3 a question is raised as to the status of a party as an agriculturist, the Court shall try that question as a preliminary issue and record its finding thereon.

[1][(1-A) Notwithstanding anything to the contrary contained in this Act, the question as to the status of a party as an agriculturist shall be raised at the earliest possible opportunity in suits filed after 30th April 1937.]

(2) Notwithstanding anything to the contrary contained in this Act or in the [2][Code of Civil Procedure, 1908], the finding of the Court of first instance on the issue of status shall be final and its correctness shall not be called in question in any appeal from the decree in the suit: Provided that the High Court may, for the purpose of satisfying itself as to the legality or propriety of the said finding or the regularity of the proceedings, call for the records and pass such order with respect thereto as it thinks fit.

Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement.

5. Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into, at any time within a period of six years before this Act is extended to the local area concerned, by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part under this Chapter, the Court shall, notwithstanding anything contained in section 92 of the Indian Evidence Act, 1872, or in any other law for the time being in force, have power to enquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or statement with a view to such determination and decision:

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1. Inserted by Act II of 1937.
2. Substituted by Act 13 of 1953.

Provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction :

Provided also that, notwithstanding anything contained in the [1][Code of Civil Procedure, 1908,] or any other law for the time being in force, a suit for a mere declaration only of the real nature of the transaction shall lie, and that such declaration shall not affect the right to bring a subsequent suit for consequential relief in reference to such transaction.

Illustrations.

(*a*) A landlord sues for possession of land leased by him to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor, who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(*b*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

(*c*) A money-lender sues to enforce a sale deed entered into by an agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale deed.

(*d*) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

Agriculturists to be sued where they reside.

6. Every suit of the description mentioned in section 3 shall, if the defendant, or, where there are several defendants, any one of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides :

Provided that nothing herein contained shall affect the provisions of sections 22 to 24 of the [1][Code of Civil Procedure, 1908.]

1. Substituted by Act 13 of 1953.

Explanation.—An agriculturist shall be deemed to reside in the place where he ordinarily engages in agriculture.

Examination of plaintiff and defendant.

7. In any suit of the description mentioned in section 3 the Court shall examine both the plaintiff and the defendant unless, for reasons to be recorded by it in writing, it deems it unnecessary or impossible to do so.

Power of Court to enquire into history of transactions.

8. (1) If the amount of the creditor's claim is disputed, it shall inquire as far as possible into the history and merits of the case out of which the suit has arisen from the commencement of the transactions between the parties or the persons, if any, through whom they claim.

(2) When the Court inquires into the history and merits of a case under sub-section (1) it shall,—

notwithstanding any agreement between the parties or the persons, (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken;

(*b*) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor and the price of goods, if any, sold to him by the creditor as part of the transactions;

(*c*) in the account of principal there shall not be debited to the debtor, any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable;

(d) in the account of interest there shall be debited to the debtor monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided;

(*e*) all money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payments shall be credited to the debtor in the account of principal;

(*f*) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances, (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

To enable the Court to make this inquiry the creditor shall produce accounts, kept in the manner hereinafter prescribed, which shall record all transactions between himself and the debtor that shall have taken place subsequent to the extension of this Act. With reference to transactions, if any, which took place prior to the extension of this Act, he shall submit with the plaint a statement of account between himself and the debtor showing, to the best of his knowledge and belief, the advances made, the repayments admitted and how the sum claimed is arrived at.

(3) Nothing contained in this section shall be deemed to empower the Court as the result of an investigation hereunder to grant relief by way of refund to an agriculturist, whether as plaintiff or as defendant, of any amount to which he is not otherwise entitled under any law for the time being in force.

In certain cases rent may be charged in lieu of profits.

9. Where the mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 8:

Provided that, if it be proved that in any year there was an entire or serious failure of the crops, an abatement of the whole or part of such rent may be allowed for the year.

Mortgagor entitled to redemption decree though time fixed by mortgage has not arrived or debt has not been discharged.

10. In a suit of the description mentioned in section 3, clause (iv) the Court may, in its discretion, pass a decree for redemption though the time fixed for the payment of the principal of the mortgage money has not arrived, or though the mortgage debt has not been completely discharged.

Power to order payment by instalments in case of decree for redemption, foreclosure or sale.

11. (1) The Court may, in its discretion, in passing a decree for redemption, foreclosure or sale in any suit under this Act or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and where the mortgagee is in possession as to the appropriation of the profits and accounting therefor, as it thinks fit.

Where the Court decides that an amount due by a mortgagor should be paid in instalments, it shall fix such instalments as may seem equitable. It shall further allow future interest at a moderate rate unless, for reasons to be recorded in writing, it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reasons to be stated in writing.

Power to continue the mortgagee in possession.

(2) In passing a decree for redemption or foreclosure in any such suit as aforesaid, the Court may direct that the amount payable by the mortgagor shall be discharged by continuing the mortgagee in possession for such further period as will enable him to recover his principal with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

(3) When the amount payable to a mortgagee in possession has been determined in any such suit as aforesaid, the Court may, in its discretion, instead of making an order for payment thereof, direct that the mortgagee be continued in possession for such period (to be specified by the Court) as will in the opinion of the Court be

sufficient to enable him to recover from the profit the amount payable by the mortgagor together with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

Power to fix instalments in execution.

[1][**12**. In passing a decree for money in any suit under this Act or in the course of any proceedings under a decree passed, whether before or after this Act comes into force, against an agriculturist, the Court may, on the application of either party, direct that any amount payable under that decree shall be paid by instalments.]

Where such an order is passed, the Court shall fix such instalments as it may consider equitable, and shall allow future interest at a moderate rate, unless for reasons to be recorded in writing it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reasons to be recorded in writing.

[2][**12-A**. The instalments to be allowed under sections 11 and 12 shall be annual, and in fixing the number of such instalments, the Court shall take into consideration among other matters, the period during which the loan was outstanding and the repaying capacity of the judgment-debtor.

12-B. Whenever the Court orders payment by instalments, it may direct that when two or more instalments are in arrears, the decree-holder may immediately enforce payment of the whole amount then remaining due under the decree.]

Agriculturist exempted from arrest and imprisonment in execution of decree for money.

13. No agriculturist shall be arrested or imprisoned in execution of a decree for money, passed whether before or after this Act comes into force.

Immovable property exempted from attachment and sale unless specifically mortgaged.

14. [3](1) [1][Except as otherwise provided in sub-sections (2), (3) and (4) no agricultural land] belonging to an agriculturist shall be attached or sold in execution of any decree or order passed after this Act comes into force, unless it has been specifically mortgaged for the payment

1. Substituted by Act VII of 1935.
2. Added by Act VII of 1935.
3. Renumbered as sub-section (1) by Act VII of 1935.

of the debt to which such decree or order relates, and the security still subsists. For the purposes of any such attachment or sale as aforesaid, standing crops shall be deemed to be movable property.

[2][(2) The Court may at the time of passing a decree for money directing payment by instalments or at any time during the course of execution of such decree, direct the judgment-debtor for sufficient cause to furnish security for the amount of the decree and if he fails to furnish the security required, order the attachment of any agricultural land belonging to the judgment-debtor.

(3) The procedure in respect of attachments ordered under sub-section (2) shall be, as far as may be, in accordance with the procedure relating to attachment before judgment under Order XXXVIII of the [2][Code of Civil Procedure, 1908.]

(4) No agricultural land ordered to be attached under sub-section (2) shall be sold in pursuance of such attachment unless the judgment-debtor is in arrears in respect of two or more instalments under the decree.]

Setting aside of sale by Deputy Commissioner.

15. (1) When any immovable property belonging to an agriculturist has been sold by public auction, under the provisions of the Third Schedule of the [2][Code of Civil Procedure, 1908,] the sale may, on the application of the decree-holder or the judgment-debtor or any other person whose interests are affected by the sale, accompanied by a deposit of a sum equal to five per centum of the purchase money, within thirty days from the date of the auction, be set aside by the Deputy Commissioner, if he considers the price bid by the purchaser to be inadequate.

(2) When the sale is so set aside, the purchaser shall be entitled to receive back his purchase money together with the deposit made under sub-section (1) and the Deputy Commissioner may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under provisions of the Third Schedule of the [2][Code of Civil Procedure, 1908.]

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1. Added by Act VII of 1935.
2. Substituted by Act 13 of 1953.

(Chapter III—Of Receipts and Statements of Accounts)

CHAPTER III.

OF RECEIPTS AND STATEMENTS OF ACCOUNTS.

Agriculturists entitled to written receipts.

16. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall at the time of such payment, tender to such agriculturist, whether he demands the same or not, written receipt for the amount of such payment.

To annual statement of accounts.

17. Any agriculturist by whom any amount is due under any instrument shall, on such date in each year as the Government, having regard to local custom, may from time to time, by notification in the Official Gazette, fix, be entitled to receive on demand, from the person claiming under such instrument, a statement, up to that date of his account under such instrument.

To have account made up from time to time in a pass book.

18. Any agriculturist in whose name an account is kept by any trader or money-lender, shall be entitled to receive from such trader or money-lender, on demand, a pass book and to require from time to time, that his account up-to-date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass book for any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section 16 to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass book as required by this section shall be entitled also to demand an account under section 17.

Accounts to be produced with plaint.

19. (1) Every money-lender having dealings with an agriculturist shall keep an account of all transactions taking place between himself and such agriculturist.

(2) Subject to the provisions of the [1][Code of Civil Procedure, 1908,] no suit under this Act against an agriculturist shall be proceeded with unless the account kept under sub-section (1) together with an extract of the entries therein on which the plaintiff relies and, in respect of transactions, if any, prior to the date on which this Act is extended to the local area concerned, a duly verified statement of account relating to such transactions are produced when the Court so directs: Provided that the Court may for adequate reasons to be recorded in writing dispense with the production of such documents with the plaint.

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1. Substituted by Act 13 of 1953.

CHAPTER IV.

MISCELLANEOUS.

Mortgages, etc., to be valid only when written.

20. No mortgage, lien or charge of or upon any immovable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Nothing in this section shall apply to any mortgage, lien or charge, created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

Recognition of payments not certified or recorded.

21. Payments or adjustments in whole or in part made out of Court in satisfaction of any decree passed under this Act shall be recognised by the Court executing the decree, though not certified to or recorded by the said Court in accordance with the provisions of the [1][Code of Civil Procedure, 1908.]

Rate of interest allowable on taking an account.

22. In taking an account under section 8 or in any suit under this Act where interest is chargeable, such interest shall be awarded at the following rates :—

(*a*) the rate, if any, agreed upon between the parties, or the persons, (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties or the person, (if any) through whom they claim, to set off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem equitable, taking into consideration the nature of the security, if any, and the normal rate of interest prevailing in the locality.

Suits to be tried as original suits.

23. Every suit under this Act shall be tried as an original suit.

Limitation.

24. In any suit of the description mentioned in section 3, clause (i), for the recovery of money from a person who at the time when the transaction took place was an agriculturist, in any of the areas notified under the second paragraph of section 1, the following periods of limitation [1][shall be deemed to be substituted for those

1. Substituted by Act 18 of 1953.

prescribed in the second column of the First Schedule to the Indian Limitation Act, 1908,] that is to say :—

(*a*) when such suit is founded on a written instrument registered under any law in force at the date of execution of such instrument,— twelve years,

(*b*) in any other case,—six years ;

Provided that nothing in this section shall—

(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal was not at the time when the transaction took place an agriculturist in any of the areas aforesaid, or

(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

Code of Civil Procedure 1908, to apply.

25. Except in so far as it is inconsistent with this Act, the [1][Code of Civil Procedure, 1908,] shall apply in all suits and proceedings under this Act.

Exemption in respect of certain Co-operative Societies.

[2][**25-A.** The Government may, by notification in the Official Gazette, from time to time, direct that the provisions of this Act, except sections 2 and 13, shall not apply to any matter to or in which any society or class of societies registered under the Mysore Co-operative Societies Act, 1918,[3] is a party, and may by a similar notification withdraw the exemption in respect of any such society or class of societies.]

Act to apply to pending suits.

26. The provisions of this Act shall apply to all suits mentioned in section 3 instituted on or after the 1st day of January 1926 and pending in any Court of first instance on the date on which this Act is extended to the local area concerned :

Provided that if the Court in which such suits are pending is not competent under this Act to try them, they shall be transferred to and tried by the Court competent to try them under this Act.

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1. Substituted by Act 13 of 1953.
2. Added by Act VII of 1935.
3. Repealed and re-enacted as Act LII of 1948.

MYSORE ACT No. V OF 1931

(AS AMENDED BY ACT XVIII OF 1949.)

THE MYSORE MEDICAL REGISTRATION ACT, 1931*

(Received the assent of His Highness the Maharaja on the Twenty-sixth day of December 1931.)

An Act for the Registration of Medical Practitioners in [1][the State of Mysore except Bellary District.]

WHEREAS it is expedient to provide for the registration of medical practitioners practising the Allopathic system of Medicine, Surgery and Obstetrics in [1][the State of Mysore except Bellary District]; it is hereby enacted as follows :—

Short title.

1. (*i*) This Act may be called the Mysore Medical Registration Act of 1931.

Extent.

(*ii*) It extends to the [1][whole of the State of Mysore except Bellary District].

Commencement of the Act.

2. The provisions of section 4 shall come into force on such date as the Government may notify in this behalf. The rest of this Act, shall come into force at once.

Definitions.

3. In this Act unless there is something repugnant in the subject or context—

(1) "Council" means the Medical Council established by this Act;

(2) "Prescribed" means prescribed by rules or bye-laws made under this Act;

(3) "Registered Practitioner" means any person registered under the provisions of this Act.

Privileges of registered practitioners.

4. Notwithstanding anything to the contrary in any enactment, rule, bye-law or any other provision of law :—

(1) No certificate required by law to be given by a medical practitioner or officer shall be valid unless signed by a registered practitioner.

(2) Except with the special sanction of the Government, no one other than a registered practitioner shall be competent to hold any appointment as medical officer of health or as physician, surgeon or other medical officer

* The Act was published under Order No. P. 3572—Legis. 31-30, dated 30th December 1931.

1. See the Mysore Adaptation of Laws Order, 1953.

in any hospital, asylum, infirmary, dispensary, lying-in-hospital, or sanatorium where the Allopathic System is practised and which is not supported entirely by voluntary contributions.

Medical Council.

5. (1) A Medical Council shall be established for Mysore and shall consist of ten members as follows:—

(*a*) A president nominated by the Government;
(*b*) one member elected by the medical faculty of the Mysore University;
(*c*) two members elected by the registered practitioners who are graduates in Medicine of the Mysore University or of any of the Universities named in the schedule hereto;
(*d*) two members elected by all other registered practitioners;
(*e*) four members nominated by the Government.

(2) The Council shall elect in the prescribed manner from among its members a Vice-President who shall preside at the meetings of the Council in the absence of the president.

Qualifications for membership of Council.

6. No person shall be eligible to be a member of the Council unless he is a registered practitioner.

Tenure of office of members.

7. The members of the Council shall hold office for a term of three years and shall be eligible for reappointment.

Members of the first Council.

8. Notwithstanding anything contained in sections 5, 6 and 7, the members of the first Council shall be nominated by the Government and shall hold office for a period of one year.

Any vacancy occurring during this period shall be filled by the Government by nomination for the unexpired term of the Council.

Cessation of membership.

9. A member of the Council shall be deemed to have vacated his seat—

(1) on sending his resignation in writing to the President or Registrar;
(2) on his absence, without excuse sufficient in the opinion of the Council, from three consecutive meetings of the Council;
(3) on his absence out of Mysore for six consecutive months;
(4) on removal of his name from the register;

(5) on his being declared an insolvent by any competent court;

(6) on expiry of the term mentioned in section 7.

Filling up of vacancies.

10. When the seat of any member becomes vacant, the vacancy shall be filled up by election or nomination, as the case may be, in accordance with the provisions of section 5. Until it is so filled up, the remaining members may act as if no vacancy had occurred.

Registrar and other officers.

11. (1) The Council shall appoint a Registrar who shall act as Secretary of the Council and who shall also act as Treasurer unless the Council shall appoint another person as Treasurer. The appointment of the Registrar shall be subject to the approval of the Government.

(2) The Council may employ such other persons as it may deem necessary for the purposes of this Act.

(3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code as in force in Mysore.

Medical register.

12. [1](1) It shall be the duty of the Registrar to keep a register of medical practitioners and from time to time to revise the register and publish it in the prescribed manner. Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, as in force in Mysore and may be proved by a copy published in the *Official Gazette*.

[2][(2) To enable the Registrar to fulfil the duties imposed upon him by sub-section (1), he may send through the post a letter to any registered practitioner, addressed to him according to his registered address or appointment, to enquire whether he has ceased to practise or whether his residence or appointment has been changed; and if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such registered practitioner from the register:

Provided that any name erased under this sub-section may be re-entered in the register under the direction of the Medical Council upon payment of a fee of five rupees.]

1. Section 12 re-numbered as sub-section (1) by Act XVIII of 1949.
2. Added by Act XVIII of 1949.

Meetings of Council.

13. No business shall be transacted at a meeting of the Council unless at least five members are present.

All questions which may come before the Council shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes the member presiding at the meeting shall have a casting vote.

Persons entitled to be registered.

14. Subject to the provisions of section 15, every person who is possessed of any of the qualifications described in the schedule shall be entitled to be registered on furnishing to the Registrar proof of such qualification :

Provided that the Government may, after consulting the Council, permit the registration of any person who shall furnish proof that he is possessed of a medical degree, diploma or certificate of any University, medical college or school approved by the Council, other than those described in the schedule ;

Provided further that the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies, in the opinion of the Council, a defect of character or who, after inquiry at which, opportunity has been given to the candidate to be heard in person or by pleader, has been held by the Council to have been guilty of infamous conduct in any professional respect.

Registration fee.

15. (1) Every person who applies to be registered under this Act shall pay a registration fee of fifteen rupees.

(2) Every registered practitioner who applies to the Registrar for registration in respect of any additional qualification obtained subsequent to registration under this Act, shall pay a fee of five rupees.

Appeal to Council from decision of Registrar.

16. If any person is dissatisfied with any decision of the Registrar refusing to enter the name or any title or qualification of such person in the register of registered practitioners, he may, at any time within three months from the date of such decision, appeal to the Council whose decision shall be final.

Fraudulent entry.

17. (1) The Council may, if it sees fit and after giving due notice to the person concerned and inquiring into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about be cancelled or amended.

Removal from Register.

(2) The Council may, after due enquiry, direct the removal altogether or for a specified period from the register, of the name of any registered practitioner for the same reasons for which registration may be refused by the Council under section 14; and the second proviso thereto shall apply to any inquiry under this section. The Council may also direct that any name so removed shall be restored.

Council may appoint a Committee for inquiries.

18. (1) An inquiry under section 14 or section 17 may be held by a committee consisting of three members of the Council elected for the purpose by the Council. The Council or the committee, as the case may be, may, at its discretion, hold such inquiry *in camera*. The decision of the committee shall be deeemed to be the decision of the Council.

Committee to be deemed a Court.

(2) For the purpose of any such inquiry or of any appeal under section 16, the Council or any committee thereof elected as aforesaid shall be deemed to be a Court within the meaning of the Indian Evidence Act, as in force in Mysore.

Appeal to Government.

19. An appeal shall lie to the Government against every decision of the Council under section 14 or section 17. Such appeal shall be preferred within three months from the date of the Council's decision.

Bar to suits and other legal proceedings.

20. No suit or other legal proceeding shall lie in respect of any act done in the exercise of any power conferred by this Act on the Government or the Council or the Registrar.

Alteration of schedule.

21. It shall be lawful for the Government by notification in the *Official Gazette* to alter the schedule;

Provided that no medical degree, diploma or certificate granted in any country or territory outside [1][the State of Mysore except Bellary District] where the medical degree, diploma or certificate of the Mysore Government or of the Mysore University is not recognised, shall be included in this schedule.

Power of Council to call for information, etc.

22. The Council shall have power to call on the governing body or authorities of any University, medical college or school, included or desirous of being included in the schedule—

(*a*) to furnish such reports, returns or other information as the Council may require to enable it to judge of the

1. See the Mysore Adaptation of Laws Order, 1953.

efficiency of the instruction given therein in medicine, surgery and midwifery ; and

(*b*) to provide facilities to enable any member of the Council deputed by the Council in this behalf to be present at the examinations held by such University, college or school.

Control by the Government.

23. If at any time it shall appear to the Government that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the Government may notify the particulars of such neglect, excess or abuse to the Council and if the Council fails to remedy such neglect, excess or abuse within such time as may be fixed by the Government in this behalf, the Government may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the Government may think fit.

Penalty on un-registered person representing that he is registered.

24. If any person whose name is not entered in the register of registered practitioners, falsely pretends that it is so entered, or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a magistrate of the First Class, with fine which may extend to three hundred rupees.

Power to make rules and bye-laws.

25. (1) The Government may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

In particular and without prejudice to the generality of the foregoing provision, the Government may make rules,—

(i) for the election of members to the Council under sections 5 and 6 ;

(ii) for the election of the vice-president of the Council ;

(iii) to regulate the procedure at an inquiry held under section 14 or section 17 ;

(iv) for the institution, hearing and disposal of appeals under section 16 or section 19 ;

(v) for the compilation, revision and publication of the register ;

(*The Schedule*)

(vi) for the disposal of fees received under this Act.

(2) The Council, may, with the previous sanction of the Government, make bye-laws—

(i) for the convening of meetings of the Council;
(ii) for the conduct of business at such meetings;
(iii) for the appointment, control, pay and allowances of the establishment employed under section 11.

THE SCHEDULE.

1. A degree or diploma granted by the University of Mysore declaring a person to be qualified to practise Medicine, Surgery and Midwifery.

2. The degree of Doctor, Bachelor and Licentiate of Medicine and Master, Bachelor and Licentiate of surgery of the Universities of Madras, Bombay and Calcutta.

3. A diploma or certificate granted by the Government of Madras, Bombay and Bengal to any person trained in a Medical College or School declaring him to be qualified to practise Medicine, Surgery and Midwifery.

4. The Diploma of Fellow and Member and the Licentiate certificate granted by the State Medical Faculty of Bengal and the College of Physicians and Surgeons of Bombay.

THE MYSORE IRRIGATION ACT, 1932.

ARRANGEMENT OF SECTIONS.

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(Chapter I—Preliminary)

MYSORE ACT No. I OF 1932

THE MYSORE IRRIGATION ACT, 1932.

(AS AMENDED BY ACTS VII OF 1938, VII OF 1952 AND 21 OF 1954.)

(Received the assent of His Highness the Maharaja on the Eleventh day of July 1932.)

WHEREAS it is expedient to make adequate provision for the proper regulation and control of the supply of water from irrigation works, for the regulation of customary labour and for certain other matters pertaining to irrigation ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. [1](1) This Act may be called the Mysore Irrigation Act, 1932.

[2][(2) It extends to the whole of the State of Mysore.]

Application.

2. The Government may, by notification in the Official Gazette, [3][apply this Act,] or any portion thereof, to any local area or to any irrigation work or class of irrigation works, and may also by a like notification subsequently exclude any portion of such local area or any such irrigation work or class of irrigation works from the operation of this Act, from such date as may be specified therein.

All existing Acts, rules, orders or usages having the force of law, in so far as they are inconsistent with any of the provisions of this Act and the rules made thereunder in the areas and with respect to the irrigation works or classes of irrigation works to which this Act [3][is applied]

1. Re-numbered by Act 21 of 1954.
2. Added by Act 21 of 1954.
3. Substituted by Act 21 of 1954.

are repealed to the extent to which they are so inconsistent :

Provided that nothing herein contained shall be deemed to affect any acts done or liabilities incurred under the said Acts, rules, orders or usages having the force of law.

[4][2-A. **Repeal and Savings.**— (1) On the date of application of this Act or any portion thereof to any local area or to any irrigation work or class of irrigation works in Bellary District by a notification under section 2, such of the Acts specified hereunder or any portion thereof and the rules and orders made thereunder as in force in Bellary District, as are specified in the said notification shall, in respect of that area or any irrigation work or class of irrigation works, stand repealed :—

(1) The Madras Irrigation Cess Act, 1865 (Madras Act No. VII of 1865), (2) The Madras Irrigation (Voluntary Cess) Act, 1942 (Madras Act No. XIII of 1942), (3) The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943 (Madras Act No. XVIII of 1943) and (4) The Madras Irrigation Tanks (Improvement) Act, 1949 (Madras Act No. XIX of 1949):

Provided that if any of the aforesaid Acts is not specified in the notification, such Act or such portions thereof, as are inconsistent with the provisions of this Act as applied by the said notification, shall be deemed to have been repealed :

Provided further that such repeal shall not affect—

(*a*) the previous operation of the said Acts, rules and orders, or anything duly done or suffered thereunder ;

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts, rules or orders ; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Acts, rules and orders ; or

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4. Inserted by Act 21 of 1954.

(*d*) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act or any portion thereof had not come into force.

(2) Any rule or order for the fixation of the rates and other incidents of any tax to be made under this Act on its application to any works connected with the utilisation of the waters of the Tungabhadra Project, shall be made only after previous consent of the President of India has been obtained to the making of such rule or order.]

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context :—

(1) " Irrigation Work ' includes—

'Irrigation Work.'

(*a*) all reservoirs, tanks, anicuts, canals, channels, *thalapariges* and pipes constructed, maintained or controlled wholly or mainly by the Government for the supply or storage of water ;

(*b*) all works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, anicuts, canals, channels, *thalapariges* or pipes and all roads constructed for the purpose of facilitating the construction or maintenance of such reservoirs, tanks, anicuts, canals, channels, *thalapariges* or pipes ;

(*c*) all water courses and drainage works as hereinafter defined ;

(*d*) all lands occupied by the Government for the purposes of such reservoirs, tanks, anicuts, canals, channels, *thalapariges*, pipes and all buildings, machinery, fences, gates and other erections, occupied by or belonging to the Government upon such lands.

'New Irrigation Work.'

(2) " New Irrigation Work " means any work of irrigation as defined in clause (1), constructed or completed after this Act comes into force and includes extensions of irrigation works made after this Act comes into force :

(3) "Water Course" (*hikkal*) means any channel or pipe which is supplied with water from an irrigation work, but which is not maintained at the cost of the Government, and includes all subsidiary works connected with any such channel or pipe except the sluice or outlet through which water is supplied to such channel, or pipe: 'Water Course.'

(4) "Drainage Work" includes channels, either natural or artificial, for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels and escape channels from an irrigation work, dams, weirs, embankments, sluices, groins and all works for the protection of lands from flood or from erosion formed or maintained by the Government either wholly or in part: 'Drainage Work.'

[1][(4-A) 'Chief Engineer' means the Chief Engineer to the Government in charge of the Public Works Department:]

(5) "Deputy Commissioner" includes any officer appointed by the Government to exercise all or any of the powers of a Deputy Commissioner under this Act: 'Deputy Commissioner.'

[1][(5-A) 'Canal Officer' means an Officer appointed by the Government to exercise all or any of the powers of a Canal Officer in respect of any canal area notified in this behalf by the Government in the *Mysore Gazette*:]

(6) "Irrigation Officer" means any officer not below the rank of an Assistant Commissioner or an Assistant Engineer appointed by the Government to exercise all or any of the functions of an Irrigation Officer under this Act: 'Irrigation Officer.'

(7) "Amildar" includes a Deputy Amildar: 'Amildar.'

(8) "Owner" includes every person having an interest in the ownership of the thing specified: 'Owner.'

(9) "Occupier" means, in respect of any land any person who has an interest in the land and cultivates the land himself or by his servants, or by hired labour and includes a tenant: 'Occupier.'

1. Inserted by Act VII of 1952.

'Magistrate.' (10) "Magistrate" means a Magistrate of the first or second class and includes a Magistrate of the third class specially empowered by the Government to try offences under this Act :

[1][(11) 'Government' means the State Government ;

(12) 'prescribed' means prescribed by rules made by the Government under this Act.]

Appointment of Officers. **4.** The Government or, subject to such rules as may be made under this Act, any officer whom the Government empowers in this behalf, may declare by notification in the Official Gazette, the officers by whom and the local limits within which all or any of the powers or duties hereinafter conferred or imposed on the Deputy Commissioner, [2][the Canal Officer] and the Irrigation Officer, shall be exercised or performed.

CHAPTER II.

OF THE CONTROL OF WATER AND OF IRRIGATION WORKS.

Power to enter upon land for purposes of inspection, etc. **5.** Any Irrigation Officer appointed in this behalf and any person acting under the general or special orders of such [3][Canal Officer or Irrigation Officer] may enter upon any land, building or water course, for the purpose of inspecting or regulating the use of water, of measuring the land irrigated thereby, and of doing anything necessary for the proper regulation, maintenance and management of any irrigation work.

Powers for repairing or preventing damage to an irrigation work. **6.** On any damage happening or being apprehended to any irrigation work or in any other emergency, any [1][Canal Officer or Irrigation Officer] and any person acting under his general or special orders in this behalf, may at

1. Added by Act VII of 1952.
2. Inserted by Act VII of 1952.
3. Substituted by Act VII of 1952.

any time enter upon any lands adjacent to, or in the neighbourhood of, any irrigation work, and may repair any existing work, construct any new work, or take and utilise any material and take any measure or do anything that may, in his opinion, be necessary to prevent such accident or to save loss or damage to any property or to repair any damage done.

Notice of intended entry on private property to be given in certain cases.

7. When [1][a Canal Officer or an Irrigation Officer,] or any person acting under his general or special orders in this behalf, proposes under the provisions of section 5 or section 6 to enter into any building or enclosed court or garden attached to a dwelling house into which water does not flow from any irrigation work, he shall previously give to the occupier of such building, court or garden, such reasonable notice as the urgency of the case may allow. Such notice shall be in writing except in a case of emergency.

CHAPTER III.

Of Water Courses.

Construction, extension, improvement or alteration of a water course on the application of person interested.

8. (1) Any person desiring the construction, extension, improvement, or alteration of a water course may apply in writing to the Irrigation Officer, and the said officer may, after giving such notice and causing such enquiries as may be prescribed by rules framed by the Government for the purpose, either permit the applicant to construct, extend, improve or alter the said water course or, if the applicant so desires, have it constructed, extended, improved or altered through Government agency on such terms and conditions as regards payment of costs, mode of execution and time of completion, facilities to be afforded by the applicant to safeguard other interests or to benefit other lands whose owners may apply for the same, and other matters as may be relevant in each case, or may reject the application.

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1. Substituted by Act VII of 1952.

From the order of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner [1] and from his decision, a second appeal shall lie within ninety days from the date of service of such appellate order to the [2][Chief Engineer] whose decision thereon shall be final.

(2) If it is necessary to acquire any land for the purposes of sub-section (1) the Deputy Commissioner may proceed to acquire the same under the provisions of the Land Acquisition Act, 1894.

Explanation :—Notwithstanding anything contained in the *proviso* to section 6(1) of the Land Acquisition Act, 1894, the acquisition of any land under sub-section (2) shall be deemed to be for a public purpose.

No alteration of water course except with consent of Irrigation Officer.

9. No water course constructed, extended, improved, or altered under the provisions of section 8 shall be altered without the consent of the Irrigation Officer.

Obligations of owners of land receiving supply from water course.

10. Every owner or occupier of land which receives a supply of water from a water course shall be bound—

(*a*) to maintain such water course in a fit state of repair ;

(*b*) to allow the use of it to any person entitled to the same by reason of an order passed under section 8 or otherwise.

Enforcement of said obligations.

11. (1) If any owner or occupier of land which receives a supply of water from a water course fails to fulfil any obligation imposed on him by sub-clause (*a*) of section 10, the Irrigation Officer may require him by notice to execute the necessary work or repair within such period not less than five days from the date of service of notice, as may be prescribed therein, and in case of his default, may execute the same on his behalf.

(2) The expenses incurred by the Irrigation Officer on any work or repair under sub-section (1) shall be recoverable from the defaulter as an arrear of land revenue.

Settlement of disputes concerning water-courses.

12. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water

1. The words "of the district" omitted by Act VII of 1952.
2. Substituted by Act VII of 1952.

course, or among joint owners of a water course as to their respective shares of the expense of constructing or maintaining such water course or as to the amount severally contributed by them towards such expense or as to failure on the part of any owner to contribute his share, any person interested in the matter of such dispute may apply in writing to the Irrigation Officer stating the matter in dispute.

Such officer shall thereupon proceed to make a summary enquiry into the matter in the manner prescribed in the Mysore Land Revenue Code, 1888, and pass his decision thereon.

From the decision of the Irrigation Officer an appeal shall lie within thirty days from the date of the service of the said decision to the Deputy Commissioner[1] whose order thereon shall remain in force, until set aside by a decree of a Civil Court.

CHAPTER IV.

Regulation of Irrigation.

Regulation of water supply from irrigation works.

13. (1) The Deputy Commissioner[1] [2][or the Canal Officer] may regulate in respect of any irrigation work for each year or for a specified term of years at a time, as circumstances may require,

(i) the time for letting out water for irrigation,

(ii) the period of the supply, and

(iii) the quantity of the supply,

after holding such enquiry as may be provided for by rules framed by the Government.

[2][(2) From the order of a Deputy Commissioner or a Canal Officer under sub-section (1), an appeal shall lie to the Chief Engineer within ninety days from the date of such order.]

Supply of water from a new irrigation work.

14. (1) Every person desiring the supply of water from a new irrigation work shall submit a written application to that effect to the Irrigation Officer in such form as may be prescribed by the Government.

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1. The words "of the district" omitted by Act VII of 1952.
2. Substituted by Act VII of 1952.

If the supply of water is desired for irrigation, it may be granted for such period and on such terms as may be prescribed by rules framed by the Government.

(2) Notwithstanding anything contained in sub-section (1), the rates leviable for the supply of water for irrigation from a new irrigation work constructed at an outlay of less than one lakh of rupees and not falling under Chapter VI of this Act shall be fixed in conformity with the provisions of the Mysore Land Revenue Code, 1888, and the rules thereunder,

provided that when such work is itself an extension of a new irrigation work constructed at a cost of not less than one lakh of rupees, the provisions of sub-section (1) shall apply irrespective of the cost of the work.

(3) If the application is for the supply of water for purposes other than those of irrigation, the Irrigation Officer may, with the sanction of the Government, permit water to be taken for such purposes subject to such special conditions and restrictions as the Government may impose in each case.

Supply of water not to be stopped except under certain circumstances.

15. The supply of water to any water course or to any person who is entitled to such supply shall not be stopped except in the circumstances and subject to the limitations specified below, namely,

(*a*) whenever and so long as it is necessary to stop such supply—

(i) for the purpose of executing any work ordered by competent authority; or

(ii) in order to supply in rotation the legitimate demand of other persons entitled to water;

(*b*) whenever and so long as any water course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*d*) within the periods fixed from time to time by an Irrigation Officer acting under section 16, of which reasonable notice shall be given.

(*Chapter IV—Regulation of Irrigation*)

Power of Irrigation Officer to determine the irrigable area and grant remission of assessment.

16. (1) [1][Subject to the provisions of section 16-A, an Irrigation Officer] specially empowered by the Government, in this behalf, may in any year, having regard to the quantity of water available in any irrigation work under his control determine the portion of the wet lands in the irrigable area of such irrigation work to be cultivated with [1][paddy, sugarcane, or any perennial crop or intermittent irrigated dry crops] or with dry or semi-dry crops, and regulate the supply of water for irrigation accordingly.

(2) If, in accordance with a decision of the Irrigation Officer under sub-section (1) any land assessed as wet is not supplied with water for raising wet crops, the holder of such land shall be entitled to remission of one-half of the assessment of such land.

From the order of the Irrigation Officer under this section, an appeal shall lie within thirty days from the date of the service of the said order, to the Deputy Commissioner [2] and from his decision a second appeal shall lie within ninety days from the date of the service of such appellate order, to the Revenue Commissioner whose decision shall be final.

Power to prescribe the kind of crop to be grown under an irrigable area and the period of sowing such crop.

[3][**16-A.** (1) An officer, not below the rank of an Executive Engineer authorised by the Government in this behalf, may, in consultation with the Deputy Commissioner or the Canal Officer and the Irrigation Panchayet or Irrigation Board, if any, having jurisdiction over the irrigable area in which the land is situated, specify, by notification published in such manner as may be prescribed, the kind of crop that shall be grown on any land under any irrigation work, and the period of sowing and planting such crop.

(2) On the publication of a notification under sub-section (1), no person shall grow or allow any crop other than the crop specified in such notification to be grown on any land under such irrigation work and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification.]

1. Substituted by Act VII of 1952.
2. The words "of the district" omitted by Act VII of 1952.
3. Section 16-A inserted by Act VII of 1952.

(*Chapter V—Of the Award of Compensation*)

Right to the supply of water passes with the property entitled to the supply.

17. (1) All rights to the supply of water from an irrigation work to any land, building or other immovable property shall be presumed to have passed to the transferee with the transfer of such land, building or other immovable property whenever such a transfer has been effected.

(2) No person entitled to the use of any irrigation work or land appertaining to any irrigation work or to use the water of any irrigation work shall sell or sublet or otherwise transfer his right to such use without the permission of the Irrigation Officer duly empowered to grant such permission except when such right is transferred with the land, building or other immovable property having such right.

Acquisition of land to ensure supply of water.

[1][**17-A.** If it is necessary to acquire any land for the purposes of this Chapter, an officer not below the rank of an Assistant Commissioner specially empowered by the Government in this behalf, may proceed to acquire the same under the provisions of the Mysore Land Acquisition Act, 1894.]

CHAPTER V.

Of the Award of Compensation.

Compensation awardable for damage.

18. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained at the time of awarding such compensation.

Provided that no compensation shall be so awarded in respect of any damage arising from—

(*a*) deterioration of climate or soil ;

(*b*) stoppage of navigation or of the means of floating timber or of watering cattle ; or

(*c*) stoppage or diminution of the supply of water of any river or stream flowing in a natural channel or of any lake or natural collection of still water by the application of such supply for the purposes of a new irrigation work or otherwise, except in so far as a right to the use of such supply may be established ; or

1. Section 17-A inserted by Act VII of 1952.

(*Chapter V—Of the Award of Compensation*)

(*d*) failure or stoppage of the water in a channel, when such failure or stoppage is due to,

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the channel, or

(3) any measures considered necessary by any Irrigation Officer duly empowered in this behalf for regulating the proper flow of water in the channel, or for maintaining the established course of irrigation, or under section 15 ;

Remission of water-rates when allowable.

But any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of the proviso under this section, shall be entitled to such remission of the water-rate payable by him as may be authorised by the Government.

Limitation of claims.

19. No claim for compensation under this Act for any damage shall be entertained after the expiration of one year from the time when the damage complained of commenced, unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period.

Compensation for damage caused by entry on land etc.

20. In every case of entry upon any land or building or the utilisation of materials under sections 5 and 6, the Irrigation Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property, and the value of the materials taken or utilised,

and within one month from the date of such entry compensation shall be tendered by the Irrigation Officer to the landholder or owner of the property.

Enquiry as to compensation.

21. If such tender is not accepted, the Irrigation Officer shall forthwith refer the matter to the Deputy Commissioner for the purpose of making enquiry as to the amount of compensation and deciding the same.

Claims to be preferred to the Deputy Commissioner.

22. All claims for compensation under this Act other than claims of the nature provided for in section 20, shall be made to the Deputy Commissioner having jurisdiction over the local area wherein the land or part thereof in

respect of which damage is alleged to have been caused is situate.

Deputy Commissioner to determine the amount of compensation.

The Deputy Commissioner shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded.

Appeal.

23. An appeal shall lie to the Revenue Commissioner from the decision of the Deputy Commissioner under either of the two preceding sections as to the amount of compensation to be awarded within ninety days from the date of such decision and the decision of the Revenue Commissioner thereon shall be final.

Compensation when due.

24. All sums of money payable for compensation awarded under this chapter shall become due three months after the final award has been made;

and simple interest at the rate of six per cent per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

CHAPTER VI.

Of the Construction and Improvement of Irrigation Works on Special Terms.

Preliminary enquiry to be held when the levy of acreage contribution or water-rate or both is necessary for undertaking construction, restoration or improvement of an irrigation work.

[1][**25.** Whenever the construction, restoration or improvement of any irrigation work in any local area is proposed to be undertaken by the Government, the Sub-Divisional Officer in the Public Works Department having jurisdiction over such area, shall hold an enquiry in the manner hereinafter provided, and shall prepare a scheme indicating the area irrigable by such irrigation work and specifying the rates of contribution and water-rates which may be levied in respect of the lands in such area.

Explanation.—Improvement in this Chapter means only such improvement of an irrigation work as will materially enhance the supply of water available therein for irrigation.]

1. Substituted by Act VII of 1952.

(Chapter VI—Of the Construction and Improvement of Irrigation Works on Special Terms)

Procedure in holding the enquiry.

26. [1][The Sub-Divisional Officer holding enquiry under section 25] shall publish a notice in the village or villages concerned specifying the place at which and the date (which shall not be earlier than thirty days after the last date of such publication) on which the enquiry will be held. The notice shall set forth the general scheme of the proposed construction or improvement, an estimate of the capital and recurring expenditure involved, the area which will be benefited by the scheme (hereinafter called the benefited area) and the rates at which it is proposed to levy contribution or water-rate or both in respect of the lands within the benefited area; and shall invite the holders of such lands to submit any objections or suggestions that they may desire to make on or before the date prescribed in the notice and to produce evidence, if any, in support of such objections or suggestions on the date appointed for the holding of the enquiry.

Report of the enquiring officer.

[1][**27.** On the date fixed for holding an enquiry under section 26 or on such other date to which the enquiry may be adjourned, the Sub-Divisional Officer shall hold a formal enquiry in the manner provided in the Mysore Land Revenue Code, 1888, and after considering any objections or suggestions duly submitted and the evidence, if any, produced and taking such further evidence as he thinks necessary, shall embody his proceedings in a report and submit it to the Government, together with a statement of objections and suggestions presented to him and any remarks he may desire to make in respect of them.

Government may abandon scheme or proceed with it with modifications.

28. On receipt of the report under section 27, the Government may, after such further enquiry, if any, as they may make, either abandon the scheme or proceed with the scheme in the original form or with such modifications as they may consider necessary.

Government may exclude operation of sections 25, 26 and 27.

28-A. The Government may, by notification in the *Mysore Gazette*, declare that the provisions of sections 25, 26 and 27 shall not apply to the construction or restoration or improvement of any irrigation work or any class of irrigation works and on the publication of such declara-

1. Substituted by Act VII of 1952.

tion, a scheme prepared by such officer as the Government may appoint, shall be dealt with under section 28, as if it were a scheme submitted under section 27.]

Publication of the scheme as finally approved by the Government.

29. (1) The scheme as finally approved by the Government shall be published in the Official Gazette, and it shall embody the following particulars :—

[1][(*a*) a description of the benefited area ;

(*b*) the rates at which contribution will be recovered in respect of the lands in the benefited area and terms of such recovery ;

(*c*) the rates at which water-rate will be imposed on the lands in the benefited area, and]

[2][(2) The contribution referred to in clause (*b*) of sub-section (1) shall not in the case of restoration or improvement of any minor tank exceed two hundred rupees per acre in respect of the lands in the benefited area.

Explanation.—'minor tank' in this sub-section means a minor tank as defined in section 2 of the Tank Panchayet Act, 1911.]

(3) The water-rate referred to in clause [2][(*c*)] of sub-section (1) shall be liable to revision after the expiry of a period of ten years and thereafter at intervals of not less than fifteen years.

[3][xx xx xx xx]

Levy of contribution and water rate on lands within the benefited area.

30. After the scheme has been carried out, the Deputy Commissioner [4][of the district] may, subject to such rules as may be prescribed by the Government in this behalf, levy from the holders of land within the benefited area in addition to the assessment fixed under the provisions of section 112 of the Mysore Land Revenue Code, 1888, contribution or water-rate or both at the rates referred to in section 29. Such contribution or water-rate shall be recoverable as a revenue demand.

Provided that the Deputy Commissioner [4][of the district] may exempt from the whole or any part of this

1. Clauses (a), (b) and (f) omitted and (c), (d) and (e) relettered as (a), (b) and (c) by Act VII of 1952.
2. Substituted by Act VII of 1952.
3. Sub-section (4) of section 29 omitted by Act VII of 1952.
4. Inserted by Act VII of 1952.

liability any land in the benefited area on the ground that the benefit from the irrigation work does not reach such land.

Provided further that when a water-rate is levied from the holder of any land under this section, no such rate shall be leviable in respect of such land under the provisions of section 53 of the Mysore Land Revenue Code, 1888.

[1] CHAPTER VI-A.

Of the Maintenance of Minor Irrigation Works.

Interpretation of 'minor irrigation works' and 'order'.

30-A. In this Chapter,—

(*i*) "minor irrigation works" means such irrigation works as the Government may, from time to time, by notification in the *Mysore Gazette*, declare to be minor irrigation works for the purposes of this Chapter ; and

(*ii*) "order" means an order published in the *Mysore Gazette*.

Declaration in respect of maintenance of minor irrigation works by Government.

30-B. (1) If the Government considers that in the interests of the proper irrigation of lands in any area, the work of maintenance in a fit state of repair of minor irrigation works in such area should be undertaken by the Government and the cost of such maintenance or any part thereof recovered from the holders of lands in the area benefited by such minor irrigation works (hereinafter in this Chapter called the benefited area), the Government shall make a declaration to that effect.

(2) The declaration under sub-section (1) shall be published in the *Mysore Gazette* in English and Kannada and in such other manner as may be prescribed.

Consequences of the making of the declaration under section 30-B.

30-C. (1) On the making of a declaration under sub-section (1) of section 30-B, the Government shall maintain in a fit state of repair such minor irrigation works and every holder of lands in the benefited area, shall pay to the Government an acreage contribution at such rates, not exceeding three rupees per acre per annum, as the Government may, by order, determine.

(2) Every order made under sub-section (1) shall be laid before the Mysore Legislative Assembly as soon as

1. Chapter VI-A inserted by Act VI of 1952.

may be after it is made, and shall be subject to such modifications as the said Legislative Assembly may make on a motion made within seven days from the date on which the order is so laid.

Levy of contribution on lands within the benefited area.

30-D. When the Government undertakes the maintenance of any irrigation work under sub-section (1) of section 30-C the Deputy Commissioner of the District shall, subject to such rules as may be prescribed in this behalf, levy from the holders of lands within the benefited area in addition to the assessment fixed under the provisions of section 112 of the Mysore Land Revenue Code, 1888, acreage contribution per annum at the rates determined under section 30-C. Such contribution shall be recoverable as a revenue demand.

CHAPTER VII.

Of Obtaining Labour in Emergencies.

Impressment of labour for urgent works of repair, etc.

31. (1) Whenever it appears to an Irrigation Officer, or in his absence the Amildar of the taluk that unless some work or repair is immediately executed, an irrigation work would sustain such serious damage as to cause sudden and extensive public injury,

or that unless some clearance, of an irrigation work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed, serious public loss would occur,

and that the labourers necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner in time to prevent such injury or loss,

it shall be lawful for such officer to require the patel or patels of the village or villages in the vicinity to call upon all or any of the able-bodied male persons who reside or hold land in or near the locality where such work, repair or clearance has to be executed to assist in the execution of the same by their labour, as such officer, or other person authorised by him in this behalf may direct.

[1][(1-A) In calling upon the able-bodied male persons to assist in the execution of any work by their labour under sub-section (1), no discrimination shall be made on

1. Inserted by Act VII of 1952.

grounds only of religion, race, caste or class or any of them.]

(2) Every person so authorised shall be deemed to be a public servant within the meaning of the Indian Penal Code.

An order made under the section shall be immediately reported to the Deputy Commissioner [1][and the Canal Officer.] Report to be made by Irrigation Officer.

32. All persons labouring or detained for the purpose of labouring by day in compliance with a requisition made under section 31 shall, as soon as may be reasonably practicable and in any case within fifteen days from the date of such impressment, be paid by the Irrigation Officer or the Amildar, as the case may be, for their labour and detention at twenty-five per cent in excess of the rates for the time being prevailing in the neighbourhood. If the persons are required to work or are detained at night, they shall be paid at double such rates. Payment for labour impressed.

33. Any person who does not accept the amount tendered in payment under section 32, may appeal within thirty days from the date of such tender, to the Deputy Commissioner, whose decision shall be final. Appeals against orders under section 32.

CHAPTER VIII.

Of Customary Labour.

34. The provisions of this chapter shall apply to tanks, river and spring channels, feeder channels connected with tanks, and other irrigation works which have been brought up to standard and handed over to the raiyats for upkeep. Works for which customary labour is enforceable.

[2][**34-A.** For the purposes of this chapter, an irrigation work includes such work in an inam village, though it is not constructed, maintained or controlled wholly or mainly by Government.]

35. (1) Every occupier of land, irrigated or served by any irrigation work, as well as the inhabitants of the village or villages and all others who derive any benefit, directly or indirectly from the work, shall perform, in respect of such work, without payment, the following customary labour :— Nature of and person liable to perform customary labour and the levy of cash contribution in lieu of labour.

1. Added by Act VII of 1952.
2. Added by Act VII of 1938.

(*a*) filling up gullies, cracks, ruts and holes in the earth work;

(*b*) removing any rank growth or pernicious weed;

(*c*) clearing such underwood as may be considered by the Irrigation Officer to be injurious;

(*d*) clearing sand or silt from sluices and branch channels and repairing the earthwork of petty and branch channels and clearing the accumulation in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields;

(*e*) maintaining the bund to the standard level and with the slopes specified;

(*f*) keeping in order the feeder channels of tanks;

(*g*) watching the bunds during rainy weather, turfing the parts acted on by the waves, helping an opening and closing sluices, and generally performing minor duties of this nature in order to prevent breaches and other accidents.

Explanation.—All land forming part of the registered or recognised *atchkat* of an irrigation work shall be deemed to be land irrigated by this work, within the meaning of this section.

(2) The Government may, by an order, direct in respect of all or any of the aforesaid works in any locality that the customary labour to be performed under this section need not be performed either wholly or in part, or that in lieu of such labour, a contribution in cash at such rates as may be fixed under rules made in this behalf be levied from the persons bound to perform the same; provided that no such order of commutation shall be made except with the consent of two-thirds of the number of persons bound to perform such labour. Such order may, at any time, be cancelled or modified by the Government.

Village patel responsible for due performance of customary labour.

36. It shall be the duty of the patel of every village [1][and the inamdar in the case of an inam village] to see that in respect of any irrigation work situated in the village or villages in his charge the customary labour specified in section 35 is duly performed and the work maintained in an efficient condition.

1. Added by Act VII of 1938.

Execution of work with hired labour on failure of customary labour.

37. If any person, who under this chapter is bound to contribute labour towards any irrigation work, neglects or refuses to do so, the patel [1][the inamdar in the case of an inam village] or other officer empowered by Government in this behalf, may get the work performed by hired labour, after giving notice by beat of drum in the villages in which the persons bound to do the work ordinarily reside or the land served by such irrigation work is situate, requiring such persons to carry out the work by a specified date and on their failure to comply with the requisition within the appointed time.

Determination of quantum of labour to be contributed.

38. The quantum of labour which each person liable under section 35 is bound to contribute, and the proportionate share of labour for each village where an irrigation work serves more than one village, shall be determined in accordance with rules framed by the Government in this behalf.

Penalty for failure to perform customary labour.

39. Whenever any person who is bound to contribute labour under section 35, neglects or fails to do so without sufficient and reasonable cause, the Irrigation Officer may levy from such person a sum equivalent to the value of the labour which such person is bound to contribute, and such amount shall be recoverable as an arrear of land revenue.

From the order of the Irrigation Officer, an appeal shall lie, within thirty days from the date of service of the order to the Deputy Commissioner, whose decision shall be final.

CHAPTER IX.

Of Irrigation Panchayets and Boards.

Constitution of an Irrigation Panchayet.

40. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may, when he is satisfied that a demand exists, constitute an Irrigation Panchayet for a village.

Such Panchayet shall consist of the patel and the shanbhog of the village who shall be *ex-officio* members and of not less than five and not more than seven other

1. Added by Act VII of 1938.

members who shall be elected in accordance with rules made under this Act, by and from among occupiers of land who are interested by reason of such occupation in the proper maintenance of such work.

The elected members shall hold office for a period of three years, but shall be eligible for re-election. Provided that an elected member shall be deemed to have vacated his office if he ceases to possess the aforesaid qualification, or if he absents himself without reasonable or sufficient cause from three consecutive meetings.

Constitution of an Irrigation Board.

41. Subject to such general or special rules as the Government may make in this behalf, the Deputy Commissioner may constitute an Irrigation Board consisting of two or more Panchayets or delegates therefrom in respect of an irrigation work irrigating more than one village.

The appointment of delegates to Irrigation Boards shall be made in accordance with rules framed under this Act and every delegate shall hold his office only for such time as he continues to be a member of the Panchayet of which he is a delegate.

42. The provisions of the following sections as regards Panchayets shall also apply as far as possible to Irrigation Boards.

43. The Government may, by rules to be framed in this behalf—

(*a*) prescribe the functions of an Irrigation Panchayet;

(*b*) prescribe the procedure to be adopted by an Irrigation Panchayet; and

(*c*) delegate to any Irrigation Panchayet any of the powers vested in the Government or in a Deputy Commissioner or in an Irrigation Officer under this Act.

Dissolution of Panchayet.

44. If in the opinion of the Deputy Commissioner, any Panchayet persistently makes default in the performance of the duties imposed upon it by this Act or rules thereunder or exceeds or abuses its powers, such Deputy Commissioner may, after giving an opportunity to the members of the Panchayet to be heard in their defence, order the Panchayet to be dissolved.

(*Chapter X—Penalties and Procedure*)

45. An appeal shall lie [1][to the Chief Engineer] against the order of the Deputy Commissioner under section 44 and the order on such appeal shall be final. Appeals.

CHAPTER X.

PENALTIES AND PROCEDURE.

[2][**45-A.** If water supplied through a water course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred, cannot be identified, the person or all the persons whose lands have derived benefit therefrom shall be liable, or jointly liable, as the case may be, for such charges as the Government may prescribe for such use. Liability when person using water unauthorisedly cannot be identified.

45-B. (1) All questions arising under section 45-A shall be decided by orders, in writing, by the Irrigation Officer. Decision of questions under section 45-A.

(2) From any order of the Irrigation Officer under sub-section (1), an appeal shall lie, within thirty days from the date of service of the said order on the person concerned, to the Deputy Commissioner, whose decision thereon shall be final.

45-C. All charges for the unauthorised use of water under section 45-A may be recovered as water rates, in addition to any penalties incurred on account of such use. Charges for unauthorised use or waste of water recoverable in addition to penalties.

45-D. For the purposes of sections 45-A, 45-B and 45-C 'water-course' includes any channel or pipe supplied with water from an irrigation work and which is maintained at the cost of the Government.] Interpretation of "water-course."

46. Whoever voluntarily and without proper authority— Offences under the Act.

(i) damages, alters, enlarges or obstructs any irrigation work;

(ii) interferes with, increases, or diminishes the supply of water in, or the flow of water from, through, over, or under any irrigation work or does any act which renders

1. Substituted by Act VII of 1952.
2. Inserted by Act VII of 1952.

irrigation work less useful than is intended for the purpose for which it was constructed ;

(iii) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any irrigation work ;

(iv) corrupts, or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used ;

(v) destroys, defaces or moves any land or level-mark or water-gauge fixed by the authority of a public servant ;

(vi) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work ;

(vii) causes any animal or vehicle to pass on or across any of the works, banks or channels of an irrigation work contrary to rules made under section 56 after he has been required to desist therefrom ;

(viii) causes or permits any animal to graze or be tethered upon the bank or border of any irrigation work ;

(ix) removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation work ;

(x) puts up a dam across or otherwise obstructs the free course of water, the right to which vests in the Government ;

[1][(x-a) contravenes the provisions of sub-section (2) of section 16-A ;]

(xi) violates any rule made under section 56, the breach whereof is declared to be an offence punishable under this section ; and whoever

(xii) being responsible for the use and maintenance of a water course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner, or prevents or interferes with the lawful use of such water course by any person authorised to use the same, under section 8 ;

shall be deemed to commit an offence under this Act and shall, on conviction before a magistrate, be punished for each such offence as is mentioned in sub-section (i) to (vi), (x), [1][(x-a)] and (xii) of this section [2][with

1. Inserted by Act VII of 1952.
2. Substituted by Act VII of 1952.

imprisonment for a term which may extend to two months or with fine which may extend to five hundred rupees or with both] and for each such offence as is mentioned in sub-sections (vii), (viii), (ix) and (xi) [1][with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.]

Penalty.

47. Any person who, being duly called upon by the patel of his village to assist by his labour in the execution of any work under section 31, refuses or neglects to comply with such call without sufficient and reasonable cause shall, on conviction before a magistrate, be punished with fine which may extend to fifty rupees.

Persons convicted under section 46 liable to repair the damage, etc.

48. When any person is convicted of an offence under section 46, the convicting magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the land-mark, level-mark, water-gauge or apparatus in respect of which conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed any Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person by the Deputy Commissioner as an arrear of land revenue.

Recovery of cost of repairing damage when the offender is unascertainable.

49. When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Deputy Commissioner may deem sufficient, be ascertained or identified, the Deputy Commissioner may, on the recommendation of the Irrigation Board or the Irrigation Panchayet concerned with the work, after giving not less than one month's notice to the occupiers of all lands benefited thereby, and after hearing their representations, if any, recover from them, as an arrear of land revenue, the cost of repairing such damage, or of removing such alteration, enlargement or obstruction, in such proportion as he thinks fit.

Punishment under other laws not barred.

50. Nothing herein contained shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act:

1. Substituted by Act VII of 1952.

Provided that no person shall be punished twice for the same act or omission.

Power to remove obstruction or damage to work.

51. Any person in charge of or employed upon any irrigation work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest police station to be dealt with according to law, any person who within his view—

(1) wilfully damages, obstructs or fouls any irrigation work, or

(2) without proper authority interferes with the supply or flow of water, in or from any irrigation work so as to endanger, damage, or render less useful any irrigation work.

CHAPTER XI.

MISCELLANEOUS.

Power of revision.

52. The Government or the Revenue Commissioner [1][or Chief Engineer] may call for and examine the records of the proceedings under this Act of a Deputy Commissioner [1][or a Canal Officer] or any Irrigation Officer subordinate to it or him for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any decision or order passed and the regularity of the proceedings of such officer.

When on examining the records of any case, the Government or the Revenue Commissioner [1][or Chief Engineer] considers that the order or decision of such officer should be revised, it or he may reverse or alter such order or decision or pass such other order as it or he may think fit. The Government alone shall be competent to revise under this section any decision or order which is declared by this Act to be final.

Offences under this Act to be cognizable.

[1][**52-A.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), all offences punishable under this Act shall be cognizable.]

Power to summon and examine witnesses.

53. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining the witnesses and the

1. Inserted by Act VII of 1952.

production of documents as are conferred on Civil Courts by the Code of Civil Procedure, 1911 and every such enquiry shall be deemed a judicial proceeding.

Manner of serving notices.

54. Service of any notice under this Act shall be made in accordance with the provisions of the Code of Civil Procedure, 1911.

Jurisdiction of Civil Courts barred.

55. No Civil Court shall take cognizance of any suit filed in respect of any matter dealt with under the provisions of Chapter V, Chapter VI, [1][Chapter VI-A,] Chapter VII or Chapter VIII.

Power to make rules.

56. (1) The Government may, after due publication, make rules not inconsistent with this Act to carry out all or any of the provisions of this Act.

(2) The rules made under this section shall be published in the Official Gazette and shall thereupon have effect as if enacted under this Act.

1. Inserted by Act VII of 1952.

THE MYSORE AMUSEMENTS TAX ACT, 1932.

ARRANGEMENT OF SECTIONS.

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2. Definitions.
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4. Admission to entertainments.
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6. Sections 4 and 5 not to apply in certain cases.
7. Manner of payment.
8. Exemptions.
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11. Inspection.
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13. Power of Government to delegate certain powers.
14. Apportionment of the proceeds of the tax.

MYSORE ACT No. VIII OF 1932*

THE MYSORE AMUSEMENTS TAX ACT, 1932

(AS AMENDED BY ACT XLVIII OF 1949.)

(Received the assent of His Highness the Maharaja on the Thirty-first day of December 1932.)

An Act to impose a Tax on Entertainments and other Amusements.

WHEREAS it is expedient to impose a tax on Entertainments, and other Amusements; It is hereby enacted as follows :— Preamble.

1. (1) This Act may be called the Mysore Amusements Tax Act, 1932. Short title, extent and commencement.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force in such local areas and from such dates as the Government may by notification direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "admission" includes admission as a spectator or as one of an audience;

(2) "admission to an entertainment" includes admission to any place in which the entertainment is held;

(3) "agriculture" includes horticulture and live-stock breeding;

(4) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

(5) "live-stock" includes animals of every description;

(6) "local authority" means a municipal council or a local body constituted under any enactment for the time being in force;

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* Published under Order No. P. 3827—Legis. 38-32-5, dated 7—9th January 1933.
1. See the Mysore Adaptation of Laws Order, 1953.

(7) "notification" means a notification published in the *Official Gazette;*

(8) "payment for admission" includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required, and any payment for seats or other accommodation in a place of entertainment;

(9) "proprietor" in relation to any entertainment, includes any person responsible for the management thereof; and

(10) "society" includes a company, institution, club or other association of persons by whatever name called.

Tax on payments for admission to entertainments

3. (1) There shall as from the first day of April 1933, be charged, levied, and paid to the Government a tax, hereinafter referred to as the entertainments tax, at a rate not exceeding twenty-five per cent on all payments for admission to any entertainment.

[1] * * *

(2) Subject to the provisions of sub-section (1), the rate of entertainments tax shall be fixed by the Government by notification from time to time and it shall be competent to the Government to fix different rates for different classes of entertainments or for different areas.

(3) The Government may, on the application of a proprietor of any entertainment in respect of which the entertainments tax is payable under sub-section (1), allow the proprietor on such conditions as they may prescribe to pay the amount of the tax due by means of a consolidated payment fixed in such manner as may be prescribed by rules framed by the Government in this behalf.

Admission to entertainments.

4. No person shall be admitted for payment to any entertainment where the payment is subject to the entertainments tax, except—

(*a*) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the Government for the purpose of revenue and

1. Proviso omitted by Act XLVIII of 1949.

denoting that the proper entertainments tax has been paid, or

(*b*) in special cases, with the approval of the Government, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by the Government for furnishing returns of the payments for admission to the entertainments and has given security up to an amount and in a manner approved by the Government for the payment of the entertainments tax.

Penalty for non-payment of tax.

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each such offence to a fine not exceeding five hundred rupees, and shall, in addition, be liable to pay any tax which should have been paid.

Sections 4 and 5 not to apply in certain cases.

6. The provisions of sections 4 and 5 shall not apply to any entertainment in respect of which a consolidated payment is made under section 3, sub-section (3).

Manner of payment.

7 (1) The entertainments tax shall be charged in respect of each person admitted for payment, and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

(3) Where the payment for admission to an entertainment is made by means of a lumpsum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment, or involving such right of admission without further payment or at a reduced charge, the entertainments tax shall be paid on the amount of lumpsum, but where the

Government are of opinion that the payment of a lump-sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to any entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the Government to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

Exemptions.

8. (1) The entertainments tax shall not be charged on payments for admission to any entertainment where the Government are satisfied :—

(*a*) that the whole of the takings thereof are devoted to philanthropic, religious or charitable purposes without any charge on the takings for any expenses of the entertainments ; or

(*b*) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the Government) ; or

(*c*) that the entertainment is provided for partly educational or partly scientific purposes by a society, not conducted or established for profit ; or

(*d*) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry of agriculture, or the manufacturing industry, or some branch thereof, or the public health and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof, for promoting the interests of which the society exists or of materials, machinery, appliances, or foodstuffs, used in the production of those products, or of articles which are of material interest in connection with the questions relating to the public health, as the case may be.

(2) The Government may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax.

Refunds in certain circumstances.

9. Where the Government are satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty-five per cent of the gross proceeds have been deducted on

account of the expenses of the entertainment, they may repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

10. (1) Any sum due on account of the entertainments tax shall be recoverable by the Government as a revenue demand. Recoveries.

(2) Any fine imposed under this Act shall be recovered in the manner provided in the Code of Criminal Procedure, 1904, for the recovery of fines.

11. (1) Any officer authorised by the Government for the purpose may enter any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at any reasonable time, with a view to seeing whether the provisions of this Act or any rules made thereunder are being complied with. Inspection.

(2) If any person prevents or obstructs the entry of any officer so authorised, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorised under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, as in force in Mysore.

12. (1) The Government may make rules for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this Act and in particular— Rules.

(*a*) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped ; and for securing the defacement of stamps when used ;

(*b*) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon ; and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation ;

(*c*) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a

different amount), and for securing proper records of admission by means of barriers or mechanical contrivances;

(*d*) for the checking of admissions, the keeping of accounts and the furnishing of the returns by the proprietors of entertainments to which the provisions of section 3, sub-section (3), are applied or in respect of which the arrangements approved by the Government for furnishing returns are made under section 4;

(*e*) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Act or under the rules made thereunder;

(*f*) for the keeping of accounts of all stamps used under this Act; and

(*g*) for the presentation and disposal of applications for exemption from payment of the entertainments tax, or for the refund thereof, made under the provisions of this Act.

(2) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

Power of Government to delegate certain powers.

13. The Government may, by notification, delegate all or any of their powers under this Act, except those conferred upon them by sub-section (3) of section 1, by section 3, by section 12, and by this section, to any person or to any authority subordinate to the Government.

Apportionment of the proceeds of the tax.

14. Government may apportion the proceeds of the entertainments tax in any local area between the local authorities and itself in such a proportion as it may determine by general or special orders or by rules made in this behalf:

Provided that the portion of the entertainments tax kept to itself by the Government shall be limited to the expenses incurred by the Government towards the cost of collection of the tax and for the administration of the Act, the amount of such expenses being determined by the Government in such manner as it may deem fit.

MYSORE ACT No. IX OF 1932*

THE BETTING TAX ACT, 1932

(AS AMENDED BY ACTS I OF 1949, III OF 1950, XVIII OF 1950 AND VIII OF 1952.)

(Received the assent of His Highness the Maharaja on the Thirty-first day of December 1932.)

An Act to provide for the imposition of a Tax on certain forms of betting.

WHEREAS it is expedient to impose a tax on certain forms of Betting; It is hereby enacted as follows :— Preamble.

1. (1) This Act may be called the Betting Tax Act, 1932. Short title, extent and commencement.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force in such local areas and from such dates as the Government may, by notification in the Official Gazette, direct.

2. In this Act,—

(1) "backer" includes any person who bets with a licensed book-maker or at a totalisator;

(2) "bet" includes "wager" and "betting" includes "wagering;"

[2][(2-A). 'licensee' means a person for whom a licence has been granted for horse-racing on a race-course under section 4 of the Mysore Race-courses Licensing Act, 1951 [3].]

(3) "licensed book-maker" means any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a [4][permit granted by a licensee to enable him to carry on his business or vocation under the Mysore Race-courses Licensing Act, 1951[3], as specified in the permit;]

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* The Act was published under Order No. P. 3828—Legis 38-32-6, dated 7—9th January 1933.

1. See the Mysore Adaptation of Laws Order, 1953.
2. Inserted by Act VIII of 1952.
3. *Sic.* should be 1952.
4. Substituted by Act VIII of 1952.

(4) "prescribed" means prescribed by this Act or the rules made thereunder;

[1] * * *

(6) "totalisator" means a totalisator in an enclosure which [2][the licensees have set apart in accordance with the provisions of the Mysore Race-courses Licensing Act, 1951[3]], and includes any instrument, machine, or contrivance known as the totalisator, or any other instrument, machine, or contrivance of a like nature or a sweep or any other scheme for enabling any number of persons to make bets with one another on the like principles.

Tax on totalisators and payment thereof.

3. There shall [4] be charged, levied and paid to the Government out of all moneys paid into any totalisator by way of stakes or bets, a tax on backers, hereinafter referred to as the totalisator tax, at such rate not exceeding [5][twenty-five per cent] of every sum so paid as the Government may, from time to time, notify in this behalf; and such portion of the moneys so paid into a totalisator as is equal to the amount of the totalisator tax at the rate notified as aforesaid by the Government in this behalf, shall be deemed to have been paid by the backer on account of the totalisator tax, and shall be received by the [2][licensees] on behalf of the Government.

Procedure for making over totalisator tax to Government.

4. The [2][licensees] shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the moneys paid into the totalisator at the meeting, and shall, at the prescribed time, make over to the prescribed officer the amount of the tax for that meeting.

Accounts of totalisator tax.

5. (1) The [2][licensees] shall keep accounts in the prescribed form of all moneys paid into the totalisator at that meeting.

(2) Every person having the custody of any such accounts shall, when required by an officer empowered in this behalf by the Government, permit such officer, or an officer authorised in writing by him in this behalf, to inspect and take copies of them.

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1. Clause (5) of section 2 omitted by Act VIII of 1952.
2. Substituted by Act VIII of 1952.
3. *Sic.* should be 1952.
4. Certain words omitted by Act VIII of 1952.
5. Substituted by Act III of 1950.

Betting tax.

6. (1) There shall [1]be charged, levied and paid to the Government [2][out of all moneys paid or agreed to be paid to a licensed book-maker by a backer in respect] of a bet made in an enclosure set apart [3][by the licensee in accordance with the provisions of the Mysore Race-courses Licensing Act, 1951 [4]], on any race, a tax,[5] hereinafter referred to as the betting tax, at a rate not exceeding [6][twenty-five per cent] of all such moneys as the Government may, from time to time, notify in this behalf.

(2) The betting tax shall be deducted or collected by the licensed book-maker from such moneys at the time when the money is [2][paid by the backer,] or in the case of credit bets at such time as may be prescribed, and shall be deemed to have been paid by the backer on account of the tax, and shall be retained by the licensed book-maker on behalf of the Government.

Procedure for making over betting tax to Government.

7. All sums retained on account of the betting tax shall be made over by the licensed book-maker, by whom they have been retained, to the prescribed officer at such times and in such manner as may be prescribed.

Accounts of betting tax.

8. (1) The [3][licensees] shall, at such times and in such manner as may be prescribed, forward to the prescribed officer, returns setting out the names of the book-makers, licensed or permitted by them to carry on the business or vocation of a book-maker at that meeting.

(2) All licensed book-makers shall keep accounts of [2][all moneys paid or agreed to be paid to them by backers in respect of bets,] in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the Government, permit such officer, or an officer authorised in writing by him in this behalf, to inspect and take copies of such accounts.

Methods of recovery of totalisator tax and betting tax.

9. [3][(1) The totalisator tax payable under section 3, shall be recoverable from the licensees as an arrear of land revenue.]

(2) All moneys which a licensed book-maker is liable to make over to the prescribed officer under section 7 shall

1. Certain words omitted by Act VIII of 1952.
2. Substituted by Act XVIII of 1950.
3. Substituted by Act VIII of 1952.
4. *Sic.* should be 1952.
5. The words "on backers" omitted by Act XVIII of 1950.
6. Substituted by Act III of 1950.

be recoverable from the licensed book-maker [1][as an arrear of land revenue.]

Rules.

10. The Government may make rules for securing the payment of the totalisator tax and the betting tax, the production and inspection of accounts kept under this Act and generally for carrying into effect the provisions of this Act, and for dealing with such matters as are therein directed to be prescribed.

Punishment.

[1][**11.**-(1) If any licensee or licensed book-maker evades or attempts to evade the collection or payment of the totalisator tax or betting tax, as the case may be, leviable and payable under this Act, or fails to maintain the accounts or supply any information which such licensee or book-maker is required to maintain or supply by or under this Act, or knowingly maintains false accounts or supplies false information, such licensee or book-maker shall be punishable with imprisonment which may extend to six months or with fine or with both.

(2) If any person contravenes or fails to comply with any of the provisions of this Act or of any rule made thereunder, and not otherwise provided for in sub-section (1), he shall be punishable with fine which may extend to five hundred rupees.

Explanation.—If the person contravening any of the provisions of this Act or of any rule made thereunder is a company or other body corporate, every director, manager, secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge and that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.]

Amendment of section 4 of the Mysore Police Act, 1908.

12. In section 4, clause (i) of the Mysore Police Act, 1908, hereinafter referred to as the said Act before the definition of "common gaming house," the following definitions shall be inserted, *viz.*,—

'Gaming.'

(1) "Gaming" does not include a lottery but includes wagering or betting on a horse race.

Exception.—Wagering or betting on a horse race is not gaming when such wagering or betting takes place—

(i) on the date on which such race is to be run ; and

1. Substituted by Act VIII of 1952.

(ii) in a place or places within the race enclosure which the authority controlling such race has, with the sanction of the Government, set apart for the purpose.

'Instruments of gaming.'

(2) 'Instruments of gaming' include an article used as a subject, or means of, or for the purpose of carrying on or facilitating, or in connection with gaming and any books, lists, tickets, forms or other documents used or intended to be used as a register or record or evidence of gaming.

Amendment of section 63 of the Mysore Police Act, 1908.

13. In section 63 of the said Act, sub-sections (1) and (2) shall be renumbered as (3) and (4) and the following shall be added as sub-sections (1) and (2), namely,—

"(1) Whoever opens, keeps or uses, or permits to be opened, kept or used any enclosure, room or place for the purpose of gaming on a horse-race, shall be liable, on conviction, to imprisonment not exceeding three months or for every day on which such enclosure, room or place is so opened, kept or used, to a fine not exceeding five hundred rupees or both.

"(2) Whoever is found gaming on a horse-race shall be liable, on conviction, notwithstanding any provision to the contrary in this Act to a fine not exceeding five hundred rupees or to imprisonment not exceeding one month."

14. In *explanation* 2 of section 63 of the said Act, after the word " wager," the word " bet " shall be inserted.

MYSORE ACT No. III OF 1933*

THE MYSORE UNIVERSITY ACT, 1933

(AS AMENDED BY ACTS XII OF 1939, XXIII OF 1951, XXII OF 1952 AND 18 OF 1954.)

(Received the assent of His Highness the Maharaja on the Sixth day of January 1933.)

An Act to amend the Mysore University Act.

Preamble. WHEREAS it is expendient to amend and consolidate the provisions of the Mysore University Act, V of 1916, as amended from time to time; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Mysore University Act, 1933.

Commencement. **2.** It shall come into force on the first day of July 1933.

Definitions. **3.** In this Act, unless there is anything repugnant in the subject or context,—

"Council" means the University Council;

"The Constituent Colleges" means, the Maharaja's College, the Central College, the Engineering College, the Medical College, the Maharani's College for Women and such other Colleges [1]as may be declared by the Government from time to time to be constituent Colleges.

[2]['Affiliated college' means a college admitted to the privileges of affiliation with the University under conditions prescribed in the Statutes and Ordinances.]

"Registered Graduates" means graduates registered under this Act or under Act V of 1916, as amended from time to time.

"Statutes and Ordinances" means the Statutes and Ordinances of the University for the time being in force.

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* The Act was published under Order No. P. 3921—Legis. 48-32-1, dated 13—16th January 1933.

1. Certain words omitted by Act 18 of 1954.
2. Added by Act XII of 1939.

(University)

"University" means the University of Mysore.

"University Professor" means a Professor in the University appointed as University Professor by the Government.

THE UNIVERSITY.

Incorporation.

4. (1) The persons who have been specified in this behalf by notification of the Government published in the Official Gazette as the Vice-Chancellor and Members of the Senate and of the Council and all persons who may hereafter become or be appointed as Vice-Chancellor and Members of the Senate and of the Council and of the Academic Council as hereinafter constituted so long as they continue to hold such office or membership shall be a body corporate by the name of the University of Mysore.

(2) The University shall have perpetual succession and a common seal and shall sue and be sued by the name first aforesaid.

(3) The University shall be deemed to be incorporated for the purposes, among others, of making provision for imparting education, literary, scientific, and artistic as well as agricultural, technical, commercial and professional, of furthering original research, of promoting the study of literature, science, art, philosophy, history, medicine and other branches of useful knowledge and of imparting physical and moral training.

Power to provide for instruction, to grant degrees, etc.

5. The University shall have power—

(*a*) to provide for instruction in such branches of learning as the University may decide and also for research and for the advancement and dissemination of knowledge,

[1][(*b*) to affiliate colleges under conditions prescribed in the Statutes and Ordinances;]

(*c*) to grant and confer degrees and other academic distinctions to and on persons who shall have pursued a

1. Inserted by Act XII of 1939.
Clauses (b), (c), (d), (e) and (f) renumbered as clauses (c), (d), (e), (f) and (g) by Act XII of 1939.

prescribed course of study in the University and shall have passed the examinations held by the University,

(*d*) to grant diplomas, certificates or other distinctions to persons who have pursued a course of study under conditions approved by the University,

(*e*) to confer honorary degrees or other distinctions,

(*f*) to withdraw or cancel degrees, diplomas, certificates or other distinctions granted or conferred, and

(*g*) to do all such other acts and things as may be required in order to further the objects of the University as a teaching and examining body.

Power to hold and to dispose of property.

6. (1) The University shall be able and capable in law to take, purchase an dhold any property, moveable or immoveable, which may become vested in it for the purpose of the University by purchase, grant, testamentary disposition or otherwise; and shall be able and capable in law to grant, demise, alien or otherwise dispose of, all or any of the property moveable or immoveable, belonging to the University; and also to do all other acts incidental or appertaining to a body corporate.

(2) All immoveable property transferred to the University by the Government either prior to the coming into force of this Act or subsequent thereto shall be under the direction, management and control of the University, and applied by it as trustee subject to the provisions and for the purposes of this Act.

The Chancellor.

Chancellor.

7. (1) His Highness the Maharaja of Mysore shall be the Chancellor and the highest controlling authority of the University.

(2) The Chancellor may at any time direct an inspection of the University Institutions, including buildings, laboratories and other appurtenances, generally and for the purpose of seeing that the proceedings of the University are in conformity with this Act, the Statutes and the Ordinances.

(3) The Chancellor may, by order in writing, annul any proceeding which is not, in his opinion, in conformity with this Act, the Statutes or the Ordinances :

Provided that, before making any such order, he may call upon the University to show cause why such an order should not be made, and if any cause is shown within reasonable time, may consider the same.

THE PRO-CHANCELLOR.

Pro-Chancellor.

8. The Chancellor may at any time appoint a Pro-Chancellor to exercise such powers and functions of the Chancellor as may be delegated to him by the Chancellor. The Pro-Chancellor shall, in all public functions connected with the University, take rank and precedence immediately after the Chancellor.

OFFICERS.

Officers of the University.

9. The officers of the University shall include—

(*a*) the Vice-Chancellor,

(*b*) the Registrar, *and*

(*c*) such other officers as may be provided for by the Statutes.

Vice-Chancellor.

10. (1) The Vice-Chancellor shall be appointed by, and shall hold office during the pleasure of, the Chancellor.

(2) The Vice-Chancellor shall take rank in the University next to the Pro-Chancellor and shall be *ex-officio* Chairman of the Senate, of the Council and of the Academic Council and of any committees appointed by the University of which he is a member. He shall be the principal Executive Officer of the Senate, of the Council and of the Academic Council. He shall in the absence of the Chancellor and of the Pro-Chancellor, preside over the Convocation and confer degrees.

(3) It shall be the duty of the Vice-Chancellor to ensure that the provisions of this Act, the Statutes and the

Ordinances are observed and carried out and he may exercise all powers necessary for this purpose.

(4) The Vice-Chancellor may take action in any emergency which in his opinion calls for immediate action. He shall, in such a case, and as soon as may be thereafter, report his action to the authority which would ordinarily have dealt with the matter.

(5) The Vice-Chancellor shall perform such other functions and exercise such other powers as may be defined in the Statutes and in the Ordinances.

Registrar.

11. The Registrar shall be appointed by the Government on the recommendation of the Council. He shall be the custodian of the records and of the common seal of the University on behalf of the Council. He shall act as Secretary to the Senate, to the Council and to the Academic Council and shall perform such other duties as may be prescribed by the Statutes or required, from time to time, by the Council or by the Vice-Chancellor.

AUTHORITIES.

Authorities.

12. The authorities of the University shall include—

(a) the Senate,

(b) the Council,

(c) the Academic Council,

(d) the Faculties, and

(e) such other authorities as may be provided for in the Statutes.

[1][THE SENATE.

Constitution.

13. (1) The Senate shall consist of—

Class I—Ex-officio Members.

(*a*) The Vice-Chancellor and the other members of the Council mentioned in section 14.

(*b*) The Registrar.

(*c*) The Deans of the Faculties.

1. Substituted by Act XXIII of 1951.

(*Additional Members*)

(*d*) The University Professors.

[1][(*e*) The Principals of Constituent Colleges, University First Grade Colleges and affiliated First Grade Colleges;

Explanation.—'First Grade College' means a College recognised by the University for providing courses of study qualifying students for admission to examinations for degrees.]

Class II—Elected Members.

(*f*) Four members elected by the Academic Council from among its members.

(*g*) Six members elected by registered graduates from among themselves.

[1][(*h*) Three members elected by and from the Mysore Legislative Council by the system of the single transferable vote;

(*i*) Nine members elected by and from the Mysore Legislative Assembly by the system of the single transferable vote].

Class III—Nominated Members.

[2] (*j*) Other members nominated by the Chancellor so as to make up along with members in classes I and II, a total membership not exceeding seventy-five.

Class IV—Additional Members.

(*k*) One representative of each of such Municipalities, District Boards and Associations as undertake to contribute a sum of not less than Rs. 2,000 per annum for a period of not less than five years to the University Fund for the general purposes of the University so long as the contributions continue to be paid; and

(*l*) Every person who contributes to the University Fund for the general purposes of the University a sum of not less than ten thousand rupees or transfers property of the like value. Every such person shall be a life member of the Senate.]

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1. Substituted by Act XXII of 1952.
2. Clauses (i), (j) and (k) relettered as clauses (j), (k) and (l) by Act XXII of 1952.

(2) The election of members of the Senate coming under class II and the appointment of additional members under class IV shall be subject to the approval of the Chancellor.

(3) The Chancellor may, on the representation of the Senate, cancel the appointment of any person as a member of the Senate, and as soon as such order is notified in the Official Gazette the said person shall cease to be a member of the Senate.

(4) The Senate shall be reconstituted every three years.

(5) Except in such cases as are otherwise provided in the Statutes, a member of the Senate shall hold his seat until the next reconstitution of the Senate or of the body he represents thereon, whichever takes place earlier.

(6) The Senate may institute and confer such degrees and grant such diplomas, licences, certificates and other distinctions under such conditions as may be prescribed by the Statutes and the Ordinances.

(7) The Senate shall subject to the provisions of sections 20 and 21, have power to make, amend or repeal Statutes, either of its own motion or on the motion of the Council and to consider or cancel Ordinances under conditions laid down by the Statutes.

(8) The Senate shall review the annual report and the annual accounts of the University which shall be placed before it by the Council and shall consider the Budget according to the provisions of the Statutes.

(9) The Senate shall have power to co-operate with other Universities and authorities.

(10) The Senate shall discharge such other functions as may be assigned to it by this Act and the Statutes.

THE COUNCIL.

Council its Function and powers.

14. (1) The Executive Government of the University including the general superintendence and control over the institutions of the University, shall be vested in the Council; provided that the Government may by rules framed in this behalf from time to time reserve to themselves such powers relating to the appointment, punishment, removal and leave of the officers mentioned in section 26 as they may deem fit.

(Council)

(2) The Council shall consist of fifteen members and shall include— Constitution.

(*a*) The Vice-Chancellor,

(*b*) The Director of Public Instruction in Mysore,

[1][(*c*) three members elected by the Senate from amongst its members who are not on the staff of constituent or affiliated colleges.]

(*d*) Two members elected from and by the Academic Council,

[1][(*e*) four heads of constituent or affiliated colleges nominated by the Chancellor,

(*f*) four other members nominated by the Chancellor of whom not more than one shall be employed on the staff of constituent or affiliated colleges.]

(3) The Council shall be reconstituted every three years, after the reconstitution of the Senate; it shall continue to function until it is reconstituted.

(4) The Council shall have power—

(*a*) to propose Statutes for the consideration of the Senate, and

(*b*) to make Ordinances subject to the sanction of the Government provided that Ordinances relating to academic matters shall not be considered by the Council except on the initiative of the Academic Council and that after consideration of academic Ordinances drafted and recommended by the Academic Council, the Council shall have power to assent to, withhold assent from, to reject or to remit for further consideration by the Academic Council, such academic Ordinances but not to modify them.

[2][(*c*) to affiliate institutions within the State in accordance with the conditions prescribed in the Statutes and Ordinances.]

(5) The Council shall hold, control and administer the property and funds of the University.

(6) The Council shall have the custody and shall direct the use of the common seal of the University.

(7) The Council shall have power to accept donations and transfers of any moveable or immoveable property on behalf of the Univeristy.

1. Substituted by Act XII of 1939.
2. Added by Act XII of 1939.

(*Academic Council—Faculties*)

(8) The Council shall be responsible for the maintenance of discipline in the University.

(9) The Council shall exercise such other powers and perform such other functions as may be prescribed by this Act, the Statutes or the Ordinances.

ACADEMIC COUNCIL.

Academic Council.

15. (1) The Academic Council shall be the academic authority in the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, be responsible for maintaining the standard of teaching and examination in the University.

(2) The Academic Council shall consist of—

The Vice-Chancellor,

The Director of Public Instruction in Mysore,

The Registrar,

The Principals of the Constituent [1][and Affiliated] Colleges,

University Professors, Professors and such Assistant Professors as are in full charge of subjects, [1][in the Constituent and Affiliated Colleges.]

The Superintendents of Intermediate Colleges,

The University Librarian,

The Deans of Faculties,

Five members elected by and from the Senate,

Five members nominated by the Government.

(3) The Academic Council shall be reconstituted every three years, after the reconstitution of the Senate; it shall continue to function until it is reconstituted.

(4) The Academic Council shall have power to propose Ordinances relating to academic matters for the consideration of the University Council and to make bye-laws regarding courses, examinations and other academic matters assigned to it by this Act, the Statutes and the Ordinances.

(5) It shall be a function of the Academic Council to promote research within the University.

THE FACULTIES.

Faculties.

16. (1) The University shall include Faculties of Arts, Science, Engineering and Technology, and Medicine and

1. Added by Act XII of 1939.

such other Faculties as may from time to time be constituted by the Statutes.

(2) The Faculties shall be constituted every three years from among the members of the Academic Council, each member of which body shall be assigned by it to one or more Faculties. Constitution.

(3) In addition to the members of the Academic Council assigned to the Faculties, the Academic Council shall appoint three teachers to each Faculty: and the Faculty so constituted shall have power to co-opt not more than three persons as members of the Faculty on the ground of their expert knowledge of subjects coming within the purview of the Faculty.

(4) Each Faculty shall act generally in an advisory capacity to the Academic Council in academic matters falling within its purview. Function.

(5) The Faculties shall perform such other functions as may be prescribed by this Act, the Statutes and the Ordinances.

(6) Each Faculty shall elect a Dean of that Faculty who shall preside as chairman at meetings of the Faculty and shall perform such other functions and duties as may be prescribed by this Act, the Statutes and the Ordinances. Dean.

[1] INSTITUTIONS FOR STUDY AND RESEARCH.

17. Colleges, Schools and other Institutions for study and research [2][other than Affiliated Colleges] shall be maintained by the University according to the provisions of the Statutes. Institutions.

FINANCE AND CONTROL.

18. (1) Subject to rules made by Government in this behalf all grants made by the Government from time to time and all sums paid or endowments made by private persons or local authorities for the purposes of the University, together with all fees received and rents and profits and other income derived from the property and funds vested in the University shall form a fund styled the University Fund which shall be at the disposal of the University to be employed for any of the purposes mentioned in this Act or in the Statutes or Ordinances. University fund.

1. Heading changed by Act XII of 1939.
2. Added by Act XII of 1939.

(2) The University Fund shall be managed according to rules laid down in that behalf in the Statutes.

Powers of Government.

19. (1) The Government shall have power at any time to order an audit of the accounts of the University by such auditors as it may direct.

(2) If at any time the Government is of opinion that in any matter the affairs of the University are not managed in the furtherance of the objects and purposes of the University or in accordance with this Act and the Statutes and the Ordinances framed thereunder, or that special measures are desirable to maintain the standard of university teaching or examination, it may indicate to the Council any matter in regard to which it desires an explanation and call upon that body to offer such explanation as they desire to offer within such time as may be prescribed. If the Council fail to offer any explanation within the time prescribed or offer an explanation which in the opinion of the Government is unsatisfactory, the Government may issue such instructions as appear to it to be necessary and desirable in the circumstances of the case and may exercise such powers as may be necessary for giving effect to those instructions.

[1][(3) Notwithstanding anything contained in the preceding sections of this Act or in any Statute made thereunder, the State Government may, by notification in the *Mysore Gazette*, and for reasons to be set forth in the notification, extend the term of any Senate, Council, Academic Council, Faculty or other authority of the University constituted under this Act or under any Statute, to such term not exceeding four years in the aggregate.]

THE STATUTES.

Statutes.

20. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters :—

(*a*) the powers and duties of the officers of the University other than the Chancellor and the Pro-Chancellor, in so far as these are not defined herein,

(*b*) the constitution, powers and duties of the authorities of the University in so far as these are not defined herein,

1. Added by Act XXIII of 1951.

[1][(*c*) the conditions of affiliation of Colleges by the University,]

[2][(*d*) the procedure to be followed in the matter of the nomination, the election and the continuance in office of members of the University authorities and the filling up of vacancies among members, in so far as these matters are not prescribed herein and all other matters relating to these bodies which it may be necessary or desirable to provide,

(*e*) the degrees, diplomas, licences, certificates and other academic distinctions to be awarded by the University,

(*f*) the withdrawal or cancellation of degrees, diplomas, licences, certificates and other academic distinctions,

(*g*) the maintenance of a register of registered graduates,

(*h*) all such other subjects as are required or authorised by this Act to be prescribed by means of Statutes.

Procedure for making Statutes.

21. (1) All proposals by the Senate to make, amend or repeal Statutes shall be submitted to the Government with the opinion of the University Council which shall have been already submitted to the Senate; It shall be open to Government to assent to, or withhold assent from such proposal or to remit them for further consideration.

(2) No new Statute and no amendment or repeal of an existing Statute made by the Senate shall have effect until it is assented to by the Government.

First statutes.

22. The First Statutes shall be those attached as Schedule A to this Act.

The Ordinances.

Ordinances.

23. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for any or all of the following, among other matters :—

(*a*) the direction of academic matters relating to courses of study and examinations,

(*b*) the discipline to be required of graduates and under-graduates,

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1. Added by Act XII of 1939.

2. Clauses (c), (d), (e), (f) and (g) of section 20 renumbered as (d), (e), (f), (g) and (h) by Act XII of 1939.

(*c*) conditions of admission to the various courses of study,

(*d*) qualifying attendance required in the various courses,

(*e*) membership of the University and the duties and privileges attached thereto,

(*f*) the payment of fees to the University in relation to the enjoyment of privileges therefrom,

(*g*) the number and designations of officers of the University, their powers and duties and the terms for which they shall hold offices in so far as these matters are not provided for in the Act and the Statutes,

(*h*) the appointment and the prescription of the duties of Boards of Studies and Boards of Examiners,

(*i*) all such other subjects as are required or authorised by the Act and the Statutes to be prescribed by means of Ordinances.

Procedure for making ordinances.

24. The procedure to be followed in making Ordinances and in amending or repealing existing Ordinances shall be according to provisions made in that behalf in the Statutes.

MISCELLANEOUS.

Subsidiary rules.

25. The Senate, the Council, the Academic Council and other bodies that may be constituted under this Act, the Statutes and the Ordinances, may make such subsidiary rules, and bye-laws not inconsistent with this Act and the Statutes and the Ordinances in force as may be required to regulate the conduct of business entrusted to them severally.

Privileges, etc., of University employees.

26. Notwithstanding anything contained in this Act, all Professors, Assistant Professors and other officers and servants now employed in the Colleges and other Institutions [1][maintained by] the University and all such as may be employed hereafter for carrying on the work of the University shall, unless a reservation to the contrary is made at the time of their employment, be deemed to be officers holding appointments under the Government and shall in all respects be governed by the rules framed by the Government and in force for the time being in respect of such officers.

1. Substituted by Act XII of 1939.

(*Transitional—Schedule A*)

Acts during vacancies.

27. No act or proceedings of the Senate, the Council, the Academic Council or other body constituted under this Act or the Statutes or the Ordinances shall be deemed to be invalid merely by reason of any vacancy in the body doing or passing it at the time any such act or proceeding is done or passed.

TRANSITIONAL.

Continuation of present ordinances.

28. The Ordinances of the University of Mysore in force at the time of the coming into operation of this Act shall, so far as they may be applicable, remain in force until they are replaced by Statutes and Ordinances to be framed under this Act.

Removal by Government of difficulties at the commencement of the Act.

29. In case of difficulty arising as to the first constitution or reconstitution of any authority of the University after the commencement of the operation of this Act or otherwise in first giving effect to its provisions, the Government may by order do anything which appears to it necessary for the purpose of removing such difficulty.

Repeal of enactments.

30. The Acts mentioned in Schedule B are hereby repealed.

SCHEDULE A.

(SEE SECTION 22.)

First Statutes.

Vice-Chancellor; Power to convene meetings.

1. (*a*) The Vice-Chancellor shall have power to convene meetings of the Senate, the Council and the Academic Council and, when necessary, of any other University body.

(*b*) The Vice-Chancellor shall convene a meeting of the Senate on the requisition of any fifteen members.

2. The quorum for meetings of the several University authorities shall be as follows :—

The Senate	.. 25
The Council	.. 7
The Academic Council	.. 20
All other bodies ..	.. Half of the strength of such bodies.

(*Schedule A*)

Registrar; Powers and duties.

3. The Registrar shall conduct the official correspondence of the Senate, the Council and the Academic Council. He shall issue all notices convening meetings of the Senate, the Council, the Academic Council and the Faculties. He shall be empowered to sign agreements on behalf of the Council. He shall manage the property and investments of the University and the University Fund under the directions of the Council.

University Institutions other than constituent colleges.

4. In addition to the Constituent Colleges, the University shall maintain the following teaching institutions, namely,—

the Intermediate College, Mysore;
the Intermediate College, Bangalore;
the Intermediate College for Women, Bangalore;
the Medical School, Bangalore and such other teaching institutions as the Government in consultation with the University may, from time to time, direct to be maintained.

Degrees.

5. The University may confer the following degrees:—

Bachelor of Arts	(B.A.)	
Bachelor of Science	(B.Sc.)	
Bachelor of Commerce	(B.Com.)	
Bachelor of Engineering	(B.E.)	
Bachelor of Medicine and Surgery	(M.B.B.S.)	
Bachelor of Teaching	(B.T.)	
Master of Arts	(M.A.)	Course.
Master of Science	(M.Sc.)	Course.
Doctor of Philosophy	(Ph.D.)	Course.
Doctor of Letters	(D.LITT.)	Honoris causa
Doctor of Science	(D.Sc.)	Honoris causa
Doctor of Laws	(LL.D.)	Honoris causa

Honorary Degrees.

Conferment of Honorary Degrees.

6. Where at a meeting of the Academic Council not less than eight members recommend that an honorary degree be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by the Council and accepted by not less than two thirds of the members present at a meeting of the Senate and is confirmed by the Chancellor, the Senate shall confer the honorary degree on such person: Provided that in case of

(*Schedule A*)

urgency the Chancellor may act on the recommendation of the Council only.

Cancellation of Degrees, etc.

7. Where evidence is laid before the Council showing that any person on whom a degree, diploma, license, certificate or other distinction has been conferred or granted by the Senate, has been convicted of what in the opinion of the Council is a serious offence involving moral delinquency and where at a meeting of the Council not less than eight members recommend to the Senate that the degree, diploma, license, certificate or other distinction be cancelled and where the recommendation is accepted by not less than two-thirds of the members present at a meeting of the Senate and is confirmed by the Chancellor, the degree, diploma, license, certificate or other distinction shall be cancelled accordingly.

Accounts of University Fund.

8. The Council shall cause to be maintained proper accounts relating to the University Fund.

Audit of accounts.

9. The Council shall arrange for the conduct of a detailed running audit by the Comptroller to the Government or by such other agency as may be determined by the Council of the accounts of the University including those of the institutions under it. It shall be competent to the University to make a contribution out of its funds towards the charges connected therewith.

Budget.

10. The Council shall have prepared and laid before the Senate at a meeting to be held not later than the month of April in each year accounts of receipts and expenditure of the University for the previous year ending the 30th June together with an estimate of the income and expenditure of the University for the year to commence on the 1st July following.

Senate to consider the Budget.

11. The Senate shall consider and pass resolutions on the budget estimates and shall communicate such resolutions to the Council. The Council shall take such action thereon as it thinks proper.

Budget to be submitted to the Government.

12. The budget estimates, after such consideration by the Senate and review by the Council shall be submitted to the Government; and it shall be competent to the Government to sanction the budget estimates with such modifications if any as they may deem fit.

(*Schedule A*)

Ordinances.

13. (i) Ordinances shall be of two kinds—

(*a*) academic

(*b*) administrative.

Procedure relating to making, amending and repealing.

(ii) Ordinances dealing with academic matters such as courses of study, examinations and the promotion of research shall be deemed to be academic ordinances.

(iii) Ordinances dealing with administrative matters such as elections, audits, inspections, fees, scholarships, free-studentships and such other matters as may be necessary for carrying on the administration shall be deemed to be administrative ordinances.

(iv) In the event of doubt arising as to the category in which an ordinance or a proposed ordinance should fall, the matter shall be decided in each such case by the ruling of the Vice-Chancellor.

Academic Ordinances.

14. (1) Proposals to make new academic ordinances or to amend or repeal existing academic ordinances shall originate with the Academic Council. Such proposals as may be accepted by the Academic Council shall be forwarded to the Council, which may assent to or withhold assent from such proposals or remit them for further consideration.

(2) The Council may, in case of urgency, dispose of academic matters which cannot wait. The Council shall, in such cases, report its action to the Academic Council at its next meeting. It shall be open to the Academic Council, to cancel such action, but without retrospective effect.

Administrative Ordinances.

15. Proposals to make new administrative ordinances or to amend or repeal existing administrative ordinances shall originate with the Council. The Council may proceed to make and to bring into effect from such date as the Council may appoint any Ordinance, whether originating with the Council or with the Academic Council provided that before any Ordinance is brought into effect it shall be submitted to the Government and it shall be competent to the Government to disallow it or suspend its operation pending consideration by the Senate.

Ordinances to be considered by the Senate.

16. All Ordinances passed by the Council shall be submitted to the Senate at the next meeting of the Senate for consideration provided that a member of the Senate

(*Schedule A*)

may give notice of a proposition in the nature of an Ordinance, which may be referred by the Senate, with or without discussion, to the Council or to the Academic Council, as the case may be : and the latter shall proceed with the proposition as in the case of a proposal initiated by itself.

Academic Ordinances to be submitted to the Senate.

17. All proposals relating to Ordinances forwarded by the Academic Council to the Council, whether approved by the latter or not, shall be submitted to the Senate at the next regular meeting of the Senate.

Procedure of Senate in regard to Ordinances.

18. The Senate may deal with Ordinances or proposals in respect of Ordinances submitted to it by the Council in any one of the following ways :—

(*a*) the Senate may assent ;

(*b*) the Senate may cancel by a two-thirds majority of the members present at the meeting at the time of voting ;

(*c*) the Senate may by a two-thirds majority of the members present at the meeting at the time of voting remit for further consideration, with or without suggestion for amendment ;

(d) in the case of proposals affecting Ordinances emanating from the Academic Council and submitted by the Council in respect of which there is disagreement between the Academic Council and the Council it shall be open to the Senate to assent or not to assent ; but not to amend.

Assent of Government to proposals relating to Ordinances necessary.

19. Ordinances which have received the assent of the Senate, or which have not been cancelled or remitted by it for further consideration shall be submitted to the Government who may sanction or reject or remit them for further consideration.

Council, duties of.

20. Besides the duties assigned to it by this Act, the Council shall exercise the following functions :—

(*a*) award stipends, scholarships, medals, prizes and other awards in conformity with the Ordinances and under the prescribed conditions ;

(*b*) appoint the teachers of the University and fix their emoluments and conditions of service in accordance with rules made by the Government on this behalf ;

(*c*) appoint the following, among other necessary Boards and Committees :—

Boards of Studies, Boards of Examiners, Students Residence Committees, Extension Lectures Committee, Union Committees, University Library Committee and the like ;

(*d*) order examinations in conformity with the Ordinances and appoint examiners after considering the recommendations of the Boards of Studies and the Academic Council ;

(*e*) declare the results of the examinations and recommend for degrees, honours, diplomas, licences, certificates and other marks of distinction ;

(*f*) maintain a list of graduates ;

Academic Council, duties of.

21. The Academic Council—

(*a*) shall make proposals for the organisation of courses of instruction in the University and shall be responsible for teaching work in the University and in general for purely academic questions ;

(*b*) shall have control and general regulation of the standards of instruction, education and examination ;

(*c*) shall make proposals for the conduct of University examinations and shall recommend to the Council the appointment of examiners ;

(*d*) shall advise the Council in regard to students' fees, for instruction and examination ; and in regard to all subjects relating to teaching, examination and academic discipline ;

(*e*) shall co-operate with other Universities or with Inter-University organizations in such work as is germane to the University.

Registration of Graduates

22. (1)The Council shall maintain a register in which a graduate of any of the following classes may be entered :—

(*a*) Graduates who have taken the degree of Master of Arts or of Master of Science in the Mysore University ;

(*b*) other Mysore University graduates who passed the Bachelor's Degree Examination not less than five years before the date of application ; and

(*c*) Mysoreans by birth or domicile who, having passed a degree examination of a University other than the

(*Schedule B*)

Mysore University before 1919, have since taken the degree.

(2) The fee for registration shall be Rs. 5 for life and shall be paid along with the application for registration. Graduates who were registered on or before 4th January 1930 shall not be required to make any further payment.

SCHEDULE B.

(See Section 30.)

Year	*Number*	*Short title*	*Extent*
1916 ..	V	The Mysore University Act.	The whole
1919 ..	II	Act to amend the Mysore University Act, 1916.	Do
1923 ..	XIV	Do	Do
1925 ..	I	Do	Do
1927 ..	III	Do	Do
1928 ..	II	Do	Do

MYSORE ACT No. VII OF 1933.

THE MYSORE CITY MUNICIPALITIES ACT, 1933.

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217 Power to inspect the office of Municipal Council.
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223 (1) Power of Government to prevent extravagance in the employment of establishment.
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(Chapter I—Preliminary)

MYSORE ACT No. VII OF 1933.

THE MYSORE CITY MUNICIPALITIES ACT, 1933.

(As amended by Acts I and III of 1938, *XXI of* 1939, *VII and XXVI of* 1940, *IX, XI, XXXII, XXXIV and XXXV of* 1943, *XIII and XVI of* 1950, *XXXVI of* 1951 *and* 19 *of* 1954.)

(Received the assent of His Highness the Maharaja on the twenty-eighth day of June 1933.)

An Act to make better provision for the management of Municipal affairs in Cities in [1][State of Mysore except Bellary District.]

WHEREAS it is expedient to make better provision for the management of municipal affairs in city municipalities in [1][State of Mysore except Bellary District], it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** (1) This Act may be cited as the Mysore City Municipalities Act, 1933.

Local extent. (2) It extends to the [1][whole of the State of Mysore except Bellary District.]

Commencement. (3) It shall come into force on the first day of August 1933.

Repeal. **2.** On this Act coming into force, the enactments mentioned in schedule A shall be repealed in so far as they relate to city municipalities.

Provided that—

Saving clause. (*a*) the said repeal shall not affect the validity or invalidity of anything already done under any of the said enactments ;

(*b*) all city municipalities constituted, municipal commissioners appointed, municipal councillors appointed or elected, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered

1. See the Mysore Adaptation of Laws Order, 1953.

into, and suits and other proceedings instituted, under the said enactments or under any enactments thereby repealed, shall, so far as may be and so far as they relate to city municipalities, be deemed to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act; and

(*c*) any enactment in force in Mysore, or document referring to any such repealed enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation section.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context,—

[1](1) * * * *

(2) "annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situated therein or thereon might reasonably be expected to let from year to year.

(3) "building" shall include any hut, shed, or other enclosure, whether used as a human dwelling or for any other purpose and shall include also walls, verandahs, fixed platforms, plinths, door-steps and the like.

(4) "councillor" shall mean any person legally a member of a municipal council.

(5) "dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

[2][(5-a) 'Election Commissioner' shall mean any Judge having jurisdiction in the municipality appointed to be the Election Commissioner for the said municipality by the Government;

(5-b) 'Government' shall mean the State Government;]

(6) "judge" shall mean District Judge, Judge of a court of small causes, Subordinate Judge, or Munsiff.

(7) "land" shall include land which is built upon or covered with water.

[illegible]

(8) " municipal commissioner " shall mean a person appointed under the provisions of section 239 and shall include a person appointed to act as municipal commissioner under sub-section (3) of section 242.

(9) " municipal council " shall mean a city municipal council.

(10) " municipality " shall mean any local area which is at present a city municipality and any local area which may hereafter be constituted or declared as a city municipality under sections 4 and 5, if such municipality has not ceased to be a city municipality.

(11) " nuisance " shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

[1][(11-a) 'occupier' includes any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, building or part and also a rent-free tenant ;]

(12) " octroi " shall include a terminal tax.

(13) " official year " shall mean the year commencing on the first day of [2][April.]

(14) " owner " shall include the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account, or as agent or trustee for any other person or for any society, or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant : Provided that no person receiving the rent of any land or building as agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of, or due to, the owner sufficient to pay for the same ; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was

1. Inserted by Act XXXVI of 1951.
2. Substituted by Act XXXVI of 1951.

occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required.

(15) "prescribed" means prescribed by any rule made by the Government under this Act.

(16) "public securities" shall mean—

(*a*) securities of the Government of India,

(*b*) securities of the Government of Mysore,

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by a law in force in Mysore, or

(*d*) a security expressly authorised by any order which the Government makes in this behalf.

(17) "public street" shall mean any street—

(*a*) over which the public have a right of way, or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired, out of municipal or other public funds, or

(*c*) which under the provisions of section 105 is declared by the municipal council to be, or under any other provisions of this Act, becomes a public street.

(18) "salaried servant of the Government" shall not include a retired servant of the Government in receipt of a pension, or a person in receipt of a salary from the Government who is not a full-time servant of the Government.

(19) "street" shall mean any road, footway, square, court, alley or passage accessible whether, permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property, and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not

include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

[1](20) * * *

(21) " tax " shall include any toll, rate, cess, fee or other impost leviable under this Act.

(22) " vehicle " shall include bicycles, tricycles and auto-motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

(23) " whole number " shall mean when used with reference to the councillors of a municipal council the total number of councillors holding office at the time.

CHAPTER II.

Constitution of Municipal Councils.

(1) *Municipalities.*

Delimitation of city municipalities.

4. (1) Subject to the provisions of sections 6 and 7 the Government may, from time to time, by notification in the official Gazette, declare any local area to be a city municipality, and may, from time to time, by a like notification, extend, contract or otherwise alter the limits of any such municipality or declare that any local area shall, from a date to be specified in the notification, cease to be a city municipality.

Limits to be specified in notification.

(2) Every such notification constituting a new city municipality, or altering the limits of an existing city municipality, shall clearly set forth the local limits of the area to be included in or excluded from such municipality, as the case may be.

Erection and maintenance of boundary marks

(3) It shall be the duty of the municipal council in every city municipality already existing and of every city municipal council newly constituted under this Act, and of every city municipal council whose local limits are altered as aforesaid, to cause, at its own cost to be erected or set up, if and when so required by the Deputy Commissioner, and thereafter to maintain, at its own cost, substantial boundary marks of such description and in such positions as shall be approved by the Deputy Commissioner, defining the limits or the altered limits of the

1. Clause 20 omitted by Act XXXVI of 1951.

(4) Before any town municipality is constituted into a city municipality, the procedure prescribed in section 7 shall, as far as may be, be followed.

(5) The property, rights and liabilities of the municipal council of a municipality declared as a city municipality under sub-section (1) shall vest in the municipal council of the municipality with effect from the date specified in the notification.

What local areas may be declared to be city municipalities.

6. (1) Any local area which comprises—

(*a*) a city, town or station, or two or more neighbouring cities, towns and stations, with or without any village, suburb, or land adjoining thereto, or

(*b*) a village or suburb or two or more neighbouring villages and suburbs,

may be declared a city municipality:

Provided that, except for exceptional reasons, which shall be clearly set forth in the proclamation under section 7 and in the notification issued under section 4, it shall not be lawful—

(i) to include any city, town, station or suburb in a city municipality with any other city, town, station or suburb from which it is separated by an extent of more than [1][two miles] of land unoccupied by houses; or

(ii) to constitute any city municipality in any area of which the population is less than twenty-five thousand.

Naming of municipalities comprising two or more places.

(2) When two or more places bearing different names are formed into one municipality, the name of the municipality shall be determined by the Government.

City municipalities.

7. (1) Not less than two months before the publication of any notification declaring any local area a city municipality, or altering the limits of any such municipality, or declaring that any local area shall cease to be a city municipality, the Government shall cause to be published in the official Gazette, in English and Kannada, and to be posted up in conspicuous spots in the said local area in Kannada, a proclamation announcing that it is

1. Substituted by Act XXXVI of 1951.

municipality subject to its authority, as set forth in the notification.

Property and rights of municipal council which has ceased to exist to vest in Government.

(4) When any local area ceases to be a municipality, the municipal council constituted therein shall cease to exist, and the property and rights vested in any such municipal council shall, subject to all charges and liabilities affecting the same, vest in the Government, and the proceeds thereof, if any, shall be expended under the orders of the Government for the benefit of the local area in which such municipal council had jurisdiction.

Conversion of town municipalities into city municipalities.

5. (1) The Government may, at any time after consulting the municipal council concerned and considering objections, if any, declare by notification in the official Gazette that any town municipality as defined in the [1] Mysore Town Municipalities Act, 1933, which contains a population of not less than twenty-five thousand inhabitants shall, with effect from a date to be specified in the notification, be deemed to be a city municipality constituted under this Act, and may at any time cancel such declaration.

(2) The provisions of the [1] Mysore Town Municipalities Act, 1933, shall not apply to any municipality declared as a city municipality under sub-section (1) with effect from the date specified in the declaration.

(3) Any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made, issued or imposed under the [1] Mysore Town Municipalities Act, 1933, in respect of a municipality declared as a city municipality, so far as is not inconsistent with the provisions of this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such municipality shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act, or of such other law in respect of the city municipality constituted by such declaration unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made or issued under this Act, or such other law.

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1. Repealed and re-enacted as Mysore Town Municipalities Act, 1951.

(4) Before any town municipality is constituted into a city municipality, the procedure prescribed in section 7 shall, as far as may be, be followed.

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may be declared a city municipality:

Provided that, except for exceptional reasons, which shall be clearly set forth in the proclamation under section 7 and in the notification issued under section 4, it shall not be lawful—

(i) to include any city, town, station or suburb in a city municipality with any other city, town, station or suburb from which it is separated by an extent of more than [1][two miles] of land unoccupied by houses; or

(ii) to constitute any city municipality in any area of which the population is less than twenty-five thousand.

Naming of municipalities comprising two or more places.

(2) When two or more places bearing different names are formed into one municipality, the name of the municipality shall be determined by the Government.

City municipalities.

7. (1) Not less than two months before the publication of any notification declaring any local area a city municipality, or altering the limits of any such municipality, or declaring that any local area shall cease to be a city municipality, the Government shall cause to be published in the official Gazette, in English and Kannada, and to be posted up in conspicuous spots in the said local area in Kannada, a proclamation announcing that it is

1. Substituted by Act XXXVI of 1951.

proposed to constitute such local area a city municipality, or to alter the limits of the municipality in a certain manner or to declare that such local area shall cease to be a municipality, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to the Deputy Commissioner within two months from the date of the said proclamation, and whenever it is proposed to add to or exclude from a municipality any inhabited area, it shall be the duty of the municipal council also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(2) The Deputy Commissioner shall, with all reasonable despatch, forward every objection so submitted to the Government.

(3) No such notification as aforesaid shall be issued by the Government unless the objections, if any, so submitted are, in its opinion, insufficient or invalid.

(2) *Municipal Councils.*

Constitution and incorporation of city municipal councils.

8. In every municipality, there shall be a municipal council, and every such municipal concil shall be a body corporate by the name of " the municipal council of . .," and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

Constitution of municipal councils.

[1][**9.** (1) Every municipal council shall consist of such number of councillors as the Government may, from time to time, by order determine.

(2) Subject to the provisions of sub-section (3) all the councillors of every municipality shall be elected.

(3) Any vacancies due to failure to elect the full number of councillors and any vacancy due to failure to elect a councillor under section 16 or 17, shall, notwithstanding anything contained in this Act, be filled up by appointment by the Government.]

Reservation of seats for scheduled castes.

[2][(1) Seats shall be reserved for the scheduled castes among the number of seats fixed under sub-section (1) of section 9. The number of seats so reserved shall bear as nearly as may be, the same proportion to the

1. Substituted by Act XXXVI of 1951.
2. Sections 10, 10A and 10B substituted by Act XXXVI of 1951.

number of seats fixed under sub-section (1) of section 9 as the population of the scheduled castes bears to the total population of the municipality :

Provided that this sub-section shall cease to have effect after ten years from the commencement of the Mysore City Municipalities (Amendment) Act, 1951 :

Provided further that the preceding proviso shall not affect any representation in a municipal council until the expiry of the term of office of its members.

(2) Nothing contained in this section shall be deemed to prevent members of the scheduled castes for whom seats have been reserved in a municipal council from standing for election to the non-reserved seats in the council.

Territorial divisions for elections.

10-A. (1) For the purposes of election of councillors to fill the seats under sub-section (1) of section 9, the municipality shall be divided into as many territorial divisions as there are councillors to be elected, the boundaries of which shall, after consultation with the municipal council, be fixed by the Government by notification in the official Gazette.

(2) The Government may, after consultation with the municipal council, by notification in the official Gazette alter the boundaries of any such division.

(3) For each of the territorial divisions, only one councillor shall be elected.

Qualification for enrolment in the election roll.

10-B. (1) Every person of either sex who was not less than twenty-one years of age on the first day of April of the year preceding that in which the election roll is published and who is not otherwise disqualified under this Act shall be included in the election roll as qualified to vote at the election for any of the divisions referred to in sub-section (1) of section 10-A.

(2) No person shall be included in such election roll as qualified to vote at such election unless he has resided in such division for one hundred and eighty days in the aggregate in the year preceding that in which the election roll is published :

Provided that a person shall not be deemed to be disqualified under this sub-section if he is employed in the city municipality and non-residence in the division for the period aforesaid is due to his absence on leave out of the State.

Explanation.—For the purpose of this sub-section, no person shall be deemed to reside in more than one division.]

Operation of lists.

11. (1) When in accordance with the rules made under clause (b) of sub-section (2) of section 228, a list of voters has been prepared or revised, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the municipal election roll. The election roll shall come into force from the date of its publication and shall continue in force for a period of [1][four years] or for such less period, if any, as the Government may by order direct in any case, and after the expiration of such period, a new election roll shall be published.

Provided that—

(*a*) in the case of an election held after an election roll has ceased to have force and before the publication of the new election roll, the old election roll shall continue to operate as the election roll;

(*b*) at any time any person whose name is not in the election roll and who claims to have it enrolled may apply to the prescribed authority to enter his name therein and the prescribed authority shall enter in the election roll the name of every such person whose claim is proved to its satisfaction;

(*c*) the prescribed authority shall at any time expunge from the election roll the name of every person proved to its satisfaction to be dead or no longer to possess the qualification of a voter and may likewise correct any clerical error or omission in the election roll after affording the person affected an opportunity of being heard;

(*d*) no change in the election roll shall be made under provisos (*b*) and (*c*) within one month preceding the date fixed for an election.

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1. Substituted by Act XXXVI of 1951.

(Chapter II—Constitution of Municipal Councils)

(2) At every election of councillors, every person enrolled in the municipal election roll as for the time being in operation under sub-section (1), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote. Right to vote to depend on entry in roll.

(3) A person shall not be qualified to be elected as a councillor unless he is enrolled in the municipal election roll and a person who is already a councillor shall not be qualified to be a candidate at a by-election held before his term of office as a councillor expires : Enrolment in municipal election roll necessary for elected councillor.

[1] * * * *

(3) *Municipal Councillors.*

12. (1) (A) No person may be a councillor—

(*a*) (i) who has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, or General disqualifications for becoming a councillor.

(ii) against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1904, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, or

(iii) who has been dismissed from municipal, district board or Government service, such dismissal having been notified as debarring him from re-employment, or.

[2][(iv) if having been a legal practitioner he has been dismissed or is under suspension by order of a competent Court, the disqualification in the latter case being operative during the period of such suspension or,]

(v) who has been removed from office under section 14 of this Act or section 14 of the [3] Mysore Town Municipalities Act, 1933, or under section 14 of the Mysore Minor Municipalities Act, 1933, or

(*b*) who is an undischarged insolvent, or

(*c*) who is less than twenty-one years of age, or

(*d*) who is a judge ; and

1. Proviso to sub-section (3) of section 11 omitted by Act XXXVI of 1951.
2. Substituted by Act XI of 1943.
3. Repealed and re-enacted as Mysore Town Municipalities Act, 1951.

(B) no person—

(*a*) who is a subordinate officer or servant of a municipal council, or

(*b*) who save as hereinafter provided, has directly or indirectly by himself or his partner any share or interest in any work done by order of a municipal council, or in any contract or employment with or under, or by, or on behalf of a municipal council or,

(*c*) who is employed as paid legal practitioner on behalf of a municipal council or accepts employment as legal practioner against a municipal council,

may be a member of such municipal council.

Provided that—

(a) the disqualification in sub-clause (*ii*) of clause (A) (*a*) will cease to operate after the expiry of the period during which a person is ordered to furnish security ;

(b) the disqualification in sub-clauses (*i*), (*iii*), [1]and (*v*) of clause (A) (*a*) will cease to operate after the expiry of three years from the date of such sentence, dismissal, [1] * * or removal or earlier by an order of the Government ;

(*c*) a person shall not be deemed to have incurred disqualification under clause (B) (b) by reason of his—

(*i*) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or

(*ii*) having a share or interest in any joint-stock company otherwise than as a managing director or agent or in any literary association registered under the Societies Registration Act, 1904, or in any society registered under the [2]Mysore Co-operative Societies Act, 1918, which shall contract with or be employed by, or on behalf of, the municipal council, or

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipal council may be inserted, or

1. The brackets and figures "(*iv*)" and the word " withdrawal " omitted by Act XI of 1943.

2. Repealed and re-enacted as Mysore Act LII of 1948.

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipal council, or

(*v*) having a share or interest in the occasional sale of any article in which he regularly trades, to the municipal council to a value not exceeding, in any one official year, such amount as the municipal council, with the sanction of the Government, may fix in this behalf, or

(*vi*) having a share or interest in the occasional letting out on hire to the municipal council or in the hiring from the municipal council, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipal council with the sanction of the Government may fix in this behalf; or

(*vii*) being a party to any agreement made with the municipal council under the provisions of section 83 or of proviso (*a*) to sub-section (1) of section 187.

If any person is elected or nominated as a councillor in contravention of the above provisions, his seat shall be deemed to be vacant.

[1][Provided further that nothing in this section shall invalidate the election of any person if the disqualification is such as could have been brought to the notice of the Returning Officer at the time of or before the scrutiny of the nomination papers and has not been so brought to his notice.]

Disabilities from continuing to be a councillor.

(2) If any councillor during the term for which he has been elected or appointed—

(*a*) becomes subject to any disqualification specified in sub-section (1), or

(b) votes or takes part as a councillor in the discussion of any matter—

(*i*) in which he has directly, or indirectly, by himself or his partner, any such share or interest as is described in sub-clauses (*i*), (*ii*), (*iii*), (*v*) or (*vii*) of clause (*c*) of the proviso to sub-section (1), whatever may be the value of such share or interest, or

1. Added by Act XXXVI of 1951.

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

(*iii*) in which he is engaged at the time in any proceeding against the municipal council, or

[1](*c*) * * *

[2](*d*) * * *

absents himself from the meetings of the municipal council during four successive months except with the leave of the municipal council, provided that no such leave shall be granted in case of absence from the meetings of the municipal council during a period exceeding six successive months, or

(*e*) fails to pay any arrears of any kind due by him to the municipal council within three months after a special notice in this behalf has been served upon him,

he shall be disabled from continuing to be a councillor, and his office shall become vacant.

A councillor whose office has become vacant under this sub-section shall, if his disability has ceased, be eligible for re-election or re-appointment.

Power of Government to decide whether vacancy has occurred.

(3) If any question or dispute arises whether a vacancy has occurred under this section, the orders of the Government shall be final for the purpose of deciding such question or dispute.

Resignation.

13. A councillor may resign his membership and a vice-president may resign his office as vice-president by giving notice in writing to that effect to the president and such resignation shall take effect from the date of the notice. The president may resign his membership or his office as president by giving a notice in writing to that effect to the Government. If such resignation is accepted it shall take effect from the date on which the intimation of such acceptance reaches the office of the president.

Liability to removal from office.

14. The Government, if it thinks fit, on the recommendation of the municipal council may remove any councillor elected or appointed under this Act, after giving him an opportunity of being heard and after such enquiry as it deems necessary, if such councillor has been guilty of misconduct in the discharge of his duties, or of any dis-

1. Clause (c) of sub-section (2) of section 12 omitted by Act XXXVI of 1951.
2. Certain words omitted by Act XXXVI of 1951.

graceful conduct, or has become incapable of performing his duties as a councillor.

Term of office.

15. Councillors [1][elected at a general election or appointed] under this Act shall, save as provided in the next following section, or unless they become in the meantime disabled or are removed from office under section 14, or section 226, hold office for a term of [1][four years] extensible by order of the Government to a term not exceeding in the aggregate [1][five years] if on any occasion the Government shall think fit, for reasons which shall be notified together with the order in the official Gazette, so to extend the same.

Casual vacancies how to be filled up.

16. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (2) of section 20, or through the death, resignation, removal or disability of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Casual vacancies occurring by increasing the number of councillors.

17. In the event of a vacancy occurring by increasing the number of councillors in any municipal council under [1][sub-section (1) of section 9] such vacancy shall be filled up, as soon as conveniently may be, by the election or appointment as the case may be, of a person thereto who shall hold office till the next general election or for such period as the Government may in this behalf notify in the official Gazette.

Re-eligibility of councillors.

18. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Publication of names of councillors and presidents and vice-presidents in the official Gazette.

19. The names of all councillors finally elected to any municipal council as well as the names of the [2] * * councillors, if any, appointed thereto, and the names

1. Substituted by Act XXXVI of 1951.
2. The word "nominated" omitted by Act XXXVI of 1951.

of all elected or appointed presidents and vice-presidents shall be published as soon as conveniently may be, in the official Gazette.

(4) *Municipal Elections.*

Determination of validity of elections; [1][enquiry by the Election Commissioner]; Procedure.

20. (1) At any time within ten days after the date of the [1][publication in the official Gazette under section 19 of the name of the person elected as a councillor] or of a president under clause (a) of sub-section (2) of section 23, any candidate who stood for election or any ten persons qualified to vote at that election may apply, together with a deposit of one hundred rupees as security for costs to the [1][Election Commissioner] within which the election has been or should have been held for the determination of the validity of the election.

(2) [1][The Election Commissioner] may, after such inquiry as he deems necessary, and subject to the provisions of sub-section (3), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purpose of the said enquiry, the said [1][Eelection Commissioner] may summon or enforce the attendance of witnesses and compel them to give evidence as if he were a civil court and he may also direct, by whom the whole or any part of the costs of such enquiry shall be paid. If the costs are to be paid by the candidate whose election is contested, the whole of such costs and if the costs are to be paid by the petitioner or petitioners, such portion if any, of the costs as is in excess of the sum paid at the time of the presentation of the application, shall be recoverable as if it had been awarded in a suit under the Code of Civil Procedure. The Code of Civil Procedure shall, as far as possible, be followed in such enquiries. An appeal shall lie to the High Court from the order of the [1][Election Commissioner] provided it is only on a point of law and is preferred within one month from the date of such order exclusive of the time requisite for obtaining a copy of the order. If the [1][Election Commissioner] sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh election.

1. Substituted by Act XXXVI of 1951.

(3) (*a*) The [1][Election Commissioner] if satisfied that a candidate has, within the meaning of sub-section (4) committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (2), and shall set aside the election of such candidate if he has been elected. Declaration in case of corrupt practice by a candidate.

(b) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the [1][Election Commissioner] shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected: Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation, no vote shall be reckoned as valid if the [1][Election Commissioner] finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(4) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section,— What is a corrupt practice.

(i) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury to any person, or,

(ii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election. Candidate when deemed to have committed corrupt practice.

Explanation.—A "promise of individual profit" includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure. Promise of individual profit.

1. Substituted by Act XXXVI of 1951.

Mere irregularities and informalities not to invalidate election.

(5) If the validity of the election is brought in question only on the ground of an error by the officer or officers charged with carrying out the rules made under clause (b) of sub-section (2) of section 228 or clause (*a*) of sub-section (2) of section 23 or of an irregularity or informality not corruptly caused, the [1][Election Commissioner] shall not set aside the election.

Explanation.—The expression 'error' in this sub-section does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or rules made thereunder whereby the result of election has been materially affected.

Disqualification of candidate for corrupt practice.

(6) If the [1][Election Commissioner] sets aside an election under clause (*a*) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate for the office of a councillor or president or both in that or any other municipality constituted under this Act or the [2]Mysore Town Municipalities Act, 1933, or under the [2]Mysore Minor Municipalities Act, 1933, for a term of years not exceeding seven and the judge's decision shall be conclusive :

Provided that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made. Provided further, that such person may, by an order which the Government is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualification.

Bar of suits relating to elections, etc.

21. No suit shall be entertained by a civil court in respect of any matter relating to the election, appointment, or removal of a councillor, president or vice-president unless such suit is authorised, by the provisions of this Act or any rule made under this Act.

(5) *Municipal Government.*

Municipal Government to vest in the municipal council.

22. (1) Except as in this Act otherwise expressly provided, the municipal government of a municipality vests in the municipal council.

1. Substituted by Act XXXVI of 1951.
2. Repealed and re-enacted as Mysore Town Municipalities Act, 1951.

(*Chapter II—Constitution of Municipal Councils*)

(2) In a municipality for which there is a municipal commissioner, the executive power for the purpose of carrying out the provisions of this Act vests in the municipal commissioner, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipal council and subject also to all other restrictions, limitations and conditions imposed by this Act.

(6) *Presidents and Vice-Presidents.*

Every municipal council to have a president and if the municipal council so desires, a vice-president.

23. (1) For every municipal council, there shall be a president, and if and whenever the municipal council so desires, a vice-president.

President to be appointed or elected.

(2) The president may be—

(*a*) If the Government so directs, elected by persons entitled to vote under sub-section (2) of section 11 subject to the rules prescribed in this behalf, or

(*b*) if the Government so directs, elected by the councillors from among their number in accordance with the rules prescribed in this behalf, or

(*c*) appointed by the Government by name, or

(*d*) appointed by the Government *ex-officio*, that is to say, as executing the functions of any office which, the Government from time to time, notifies in this behalf.

Effect of notification of *ex-officio* president.

(3) When an office has been notified under clause (*d*) of sub-section (2), the person from time to time executing the functions of that office shall continue to be president, unless and until such notification is altered or rescinded by the Government.

Vice-president to be elected.

(4) The vice-president shall be elected by the councillors from among their number in accordance with the rules prescribed in this behalf.

(5) [1] * * *If any municipal council fails to elect a president or vice-president within such reasonable time as may be specified in a notice issued by the Government in this behalf, the president or vice-president, as the case may be, may be appointed by the Government.

1. The first sentence omitted by Act XXXVI of 1951.

When Deputy Commissioner may perform functions of president.

(6) During a vacancy in the office of the president of a municipal council and when there is no vice-president to take his place, the Deputy Commissioner or the person performing the duties of the Deputy Commissioner for the time being, shall notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, perform the functions of the president.

Consequence of absence of president or vice-president without leave.

(7) Except in the case of a salaried servant of the Government who is either an appointed or *ex-officio* president, every president who, for a priod exceeding two months and every vice-president who for a period exceeding one month, shall absent himself from the muuicipality in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted—

(*a*) by the Government in the case of a president appointed by the Government,

(*b*) by the municipal council in other cases.

Limit of grant of leave and arrangements during leave.

(8) Leave under the last preceding sub-section shall not be granted for a period exceeding six months. Whenever leave is granted to a president and there is no vice-president for the council or the office of the vice-president is vacant, the vacancy shall be filled up by election by the council from among the councillors whether the president was elected under clause (*a*) *or* (*b*) of sub-section (2), within such period and in such manner as may be prescribed. If the council fails to elect the president or if the appointment of the president was under clause (*c*) of sub-section (2), the Government may fill up the vacancy. When leave is granted to a vice-president or when the vice-president is acting for the president, the vacancy in the office of the vice-president may be filled up by election of some other councillor thereto.

Vacation of office by vice-president on becoming president.

(9) If a vice-president of a municipal council is elected or appointed as president of the council, he shall be deemed to have vacated his office as vice-president.

Vacation of office by president and vice-president for want of confidence.

(10) Every president, other than a salaried servant of the Government appointed *ex-officio* or by name as president and every vice-president of a municipal council shall forthwith be deemed to have vacated his office;

(*a*) if a resolution expressing want of confidence in him is passed by a majority of not less than two-thirds of the whole number of councillors at a special general meeting convened for the purpose ; or

(*b*) if resolutions expressing want of confidence in him are passed by the votes of not less than one-half of the whole number of councillors at two special general meetings convened for the purpose within an interval of not less than one month and not more than four months from each other.

Removal of presidents and vice-presidents.

(11) Every president and vice-president shall, after an opportunity is afforded for hearing him, be removable from his office as such president or vice-president by the Government for misconduct in the discharge of his duties or for neglect of or incapacity to perform his duties or if he is unable to pay his debts.

Explanation.—A person may be presumed to be unable to pay his debts if he is under arrest or imprisonment in execution of the decree of any court for the payment of money.

Term of office of president and vice-president.

(12) The term of office of every president and of every vice-president shall, save as otherwise provided in this Act, cease on the expiry of his term of office as councillor :

Provided that in the case of elected presidents or vice-presidents or both, the Government may, in special cases, with the consent of the municipal council concerned, direct that their term be limited to one year and that elections therefor be held every year.

Vacancies in their office how to be filled up.

(13) In the event of the non-acceptance of office, death, resignation or removal from office of a president or vice-president other than an *ex-officio* president or of his election or appointment being void, or of his becoming incapable of acting in such office or having ceased to be a councillor under sub-section (2) of section 12, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up by appointment or election, as the case may be, in accordance with the provisions of the foregoing sub-sections. For all the vacancies which are not otherwise provided for, the

Government may appoint any person to perform all the duties and exercise all the powers of a president or vice-president during such vacancy.

[1][(13-A) In cases not otherwise provided for, if the President of a Municipal Council is, for any reason, unable to perform his duties or exercise his powers as President or is disabled or prevented from performing or exercising such duties or powers, the Government may, for the period during which he is unable or disabled or prevented, authorise the vice-president, or, in his absence or on his neglect or inability, the Municipal Commissioner, to perform all the duties and exercise all the powers of the President under this Act.]

Remuneration of president and vice-president of municipal council.

(14) The president or vice-president of any municipal council who is not a Government officer may receive out of the municipal fund such monthly allowances as such municipal council may sanction from time to time with the approval of the Government. It shall be lawful for any municipal council to pay out of the municipal fund with the sanction of the Government, salary or allowances to any Government officer who is appointed as president.

Functions of presidents.

24. (1) Subject to the provisions of chapter XIII and XIV, it shall be the duty of the president of a municipal council to—

(*a*) preside, unless prevented by reasonable cause, at all meetings of the municipal council, and, subject to the provisions of the rules for the time being in force under clause (*a*) of section 49, to regulate the conduct of business at such meetings ;

(*b*) watch over the financial and executive administration of the municipal council ;

(*c*) perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under and in accordance with this Act ;

(*d*) subject to the provision of section 38 and of the rules for the time being in force, perform such other executive functions as may be performed by or on behalf of the municipal council over which he presides ;

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1. Added by Act XXXIV of 1943.

(*e*) exercise supervision and control over the acts and proceedings of all officers and servants of the municipal council in matters of executive administration and in matters concerning the accounts and records of the municipal council; and, subject to the rules for the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(*f*) furnish to the Government a copy of every resolution passed at any meeting of the municipal council; and

(*g*) furnish any extract from the minutes of the proceedings of the municipal council or of any committee or other document or thing which the Deputy Commissioner or the officer authorised by the Government in this behalf from time to time calls for under section 216.

(2) In a municipality for which there is neither a chief officer, nor a Municipal Commissioner, the president shall, notwithstanding anything contained in chapters XIII and XIV and independently of such executive functions as are allotted to him by or delegated to him under any other provision of this Act, exercise all the powers that may be exercised by a municipal commissioner in the municipality and the provisions of section 247 shall be applicable to every disobedience or failure to comply with a lawful direction given by the president in exercise of such powers as if he were the municipal commissioner for the municipality.

Channel of communication with Government.

(3) All correspondence between a municipal council and the Government shall be conducted through the president. The president shall without delay transmit all communications addressed through him by the municipal commissioner to the Government or by the Government to the municipal commissioner.

Custody of records.

25. In a municipality for which there is a municipal commissioner, the municipal commissioner, and in every other municipality the president, shall be responsible for the custody of all records of the municipal council including all papers and documents connected with the proceedings of the council, the managing committee and other committees and shall arrange for the performance

of such duties relative to the proceedings of the said bodies as they may respectively impose.

Functions of vice-presidents.

26. (1) It shall be the duty of the vice-president of a municipal council to exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him in accordance with the general or special orders of the Government issued in this behalf.

(2) It shall be the duty of the vice-president—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipal council, and he shall, when so presiding exercise the same authority as is vested in the president under clause (a) of sub-section (1) of section 24; and

(*b*) pending the succession, appointment, or election of a president, or during the absence of a president on leave, to exercise the powers and perform the duties of the president.

(3) When the Deputy Commissioner has been appointed *ex-officio* president of a municipal council, notwithstanding anything contained in section 9 of the Mysore Land Revenue Code, the vice-president shall exercise the powers and perform the duties of the president during the period when the office of the president is vacant.

CHAPTER III.

Conduct of Business.

(1) *Municipal Meetings.*

Provisions in regard to meetings of a municipal council.

27. The following provisions shall be observed with respect to the meetings of a municipal council :—

Ordinary general meetings.

(1) There shall be held an ordinary general meeting in each month for the disposal of general business. It shall be the duty of the president to fix the dates for all ordinary general meetings.

Special general meetings.

(2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the whole number of councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this sub-section, the vice-president or one-third of the whole number of councillors may call such meeting for a day not more than thirty days after the presentation of such request.

Notice to be given of meetings.

(3) Seven clear days' notice of an ordinary general meeting, and three clear days' notice or in cases of great urgency, notice of such shorter period as is reasonable of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be given to the councillors, and posted up at the municipal office or some other public building in the municipality. The said notice shall include any motion or proposition which a councillor shall have given written notice, not less than ten days previous to the meeting, of his intention to bring forward thereat, and, in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting:

Provided that the motion or proposition of which a councillor or councillors shall have given notice shall relate to matters connected with the municipal administration and shall not be inconsistent with the provisions of this Act.

Municipal meetings to be held at municipal office.

(4) Every meeting of a municipal council shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a municipal office by such municipal council.

Meeting how presided over in the absence of both the president and vice-president.

(5) Every meeting shall in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of sub-section (1) of section 24.

Meeting must ordinarily be open to the public.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipal council such as should

be held in private, provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

Number of councillors required to form a quorum.

(7) If less than one-third [1][or during such time as Government may by notification in the Official Gazette direct less than one-fifth] of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall, after waiting for not less than fifteen and not more than thirty minutes, adjourn the meeting to such hour on the following or some other future day as he may reasonably fix, and a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting provided that not less than one-fifth of the whole number of councillors or five councillors whichever is greater [1][or during such time as Government may by notification in the Official Gazette direct not less than four councillors] be present. Any subject not disposed of at such an adjourned meeting shall be deemed to have lapsed and may be brought before the next ordinary general meeting, or if necessary or expedient, at a special general meeting.

Business to be transacted at meetings, and order of business how to be settled.

(8) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been mentioned in the notice convening such meeting, or, in the case of a special general meeting in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business, or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings to be kept.

(9) There shall be kept in English, and if the municipal council so resolves in Kannada also, minutes of

1. Inserted by Act XXXIV of 1943.

the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (16), and of the proceedings at each general meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the presiding authority of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipality.

All questions must be decided by a majority of votes.

(10) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 49.

Councillor not to vote on questions in which he has pecuniary interest.

(11) No councillor shall vote on, or take part in the discussion of any question coming up for consideration at a meeting of the council if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest.

Presiding authority to vacate the chair when he has pecuniary interest in any matter under discussion.

(12) If the presiding authority is believed by any councillor present at the meeting to have any such pecuniary interest in any matter under discussion, and if a motion to that effect be carried, he shall not preside at the meeting during such discussion, or vote on or take part in it. Any other councillor may be chosen or elected to preside at the meeting during the continuance of such discussion.

Adjournments of meetings.

(13) Any general meeting may, with the consent of a majority of the councillors present [1][or during such time as the Government may by notification in Official Gazette direct with the consent of not less than four-fifths of the whole number of councillors present], be adjourned from time to time to a later hour on the same day or to any other day; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the municipal office shall be deemed sufficient notice of the adjourned meeting.

1. Inserted by Act XXXIV of 1948.

Modification and cancellation of resolutions.

(14) No resolution of a municipal council shall be modified or cancelled within three months after the passing thereof, except by a resolution passed by not less than one-half of the whole number of councillors at a general meeting whereof notice shall have been given, fulfilling the requirements of sub-section (3) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting, and the motion or proposition for the modification or cancellation of such resolution.

Notice of business to be transacted must in certain cases be given to the Government Executive Engineer.

(15) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the municipal council by a Government Executive Engineer, shall be transacted at any meeting of a municipal council unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Certain Government officers may attend meetings of municipal councils.

(16) (*a*) The Executive Engineer, the principal officer of health in the district and any other officer approved and notified by the Government in this behalf, if not members of a municipal council within the district, shall have the right of being present at any meeting of such municipal council, and, with the consent of the municipal council, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipal council :

Provided that the said officers shall not, unless they are members of the municipal council, be entitled to vote upon any such question.

Municipal council may require the presence of certain of the said officers at their meetings.

(*b*) If it shall appear to a municipal council that the presence of the Executive Engineer or the principal officer of health in the district or any other officer approved and notified by the Government in this behalf, is desirable for the purpose aforesaid at any future meeting of such municipal council, it shall be competent to such municipal council, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to

require his presence thereat; and the said officer, unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself instruct a deputy or assistant or other competent subordinate as to his views, and may send him to the meeting as his representative, instead of appearing thereat in person.

Explanation.—The term "Executive Engineer" in sub-sections (15) and (16) of this section includes the principal Engineering officer in or for the district.

Right of municipal commissioner to be present and to speak at municipal meetings.

28. (1) A municipal commissioner shall have the same right of being present at a meeting of the municipal council or the managing or other committee and of taking part in the discussion thereat as a councillor and with the consent of a majority of the councillors present, ascertained by a show of hands without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.

(2) The municipal commissioner shall attend any meeting of the municipal council or of the managing or other committee if required to do so by the president.

Rights and privileges of individual councillors and president.

29. (1) Any councillor may call the attention of the proper authority to any neglect in the execution of municipal work, to any waste of municipal property or the wants of any locality, and may suggest any improvements which he considers desirable.

(2) Every councillor shall have the right to interpellate the president and to move resolutions on matters connected with the municipal administration, subject to such regulations as may be framed by the council.

(3) Every councillor shall have access to the records of the municipal council after giving due notice to the municipal commissioner, when there is one, and in other cases to the president, provided that the municipal commissioner or the president may for reasons given in writing forbid such access. The councillor may appeal from the order of the municipal commissioner to the president whose decision shall be final.

(4) In a municipality for which there is a municipal commissioner, the president shall have full access to all the records of the municipal council and the municipal commissioner shall comply without unreasonable delay with any requisition of the president for any information appertaining to the municipal administration.

(2) *Committees.*

Managing Committee.

30. (1) For every municipal council there shall be a committee called the managing committee, consisting of the president and such number of councillors not exceeding eight or less than two as may have been elected for a period not exceeding one year, in accordance with rules under clause (*a*) of section 49.

Powers of managing committee.

(2) The managing committee shall, subject,

(i) to any limitations prescribed by the municipal council specially in this behalf and generally by rules made under clause (*a*) of section 49 ; and

(ii) to the provisions of chapters XIII and XIV,

exercise all the powers of the municipal council :

Provided that no managing committee shall exercise any powers with which any committee appointed under section 31 is vested.

Other Committees.

31. The municipal council may constitute in addition to the managing committee constituted under section 30, any other committee for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them ; or may appoint individual councillors or committees, to enquire into and report or advise on any matters which it may refer to them.

When persons other than councillors may serve on committees.

32. Notwithstanding anything contained in this Act, it shall be lawful for the municipal council from time to time, by a resolution supported by not less than one-half of the whole number of councillors, to appoint as members of any committee under section 31, any persons who are not councillors, but who may in the opinion of such municipal council possess special qualifications for serving on such committees, provided that the

number of persons so appointed on any committee shall not exceed one-half of the total number of the members of such committee.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons. Duties, etc., of such persons.

33. A vacancy occurring in a managing committee shall as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has previously been a member of that committee. Casual vacancies—Re-eligibility.

34. (1) The president, if a member of any committee, shall be *ex-officio* chairman thereof. When chairman to be *ex-officio*.

(2) The vice-president, if appointed a member of any committee of which the president is not a member, shall be *ex-officio* chairman thereof.

(3) The municipal council may appoint a chairman for every committee of which there is no *ex-officio* chairman. When no *ex-officio* chairman, municipal council may appoint chairman.

(4) Every committee, of which there is an *ex-officio* chairman or a chairman appointed by the municipal council, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting. When *ex-officio* or appointed chairman does not attend meeting, committee may appoint chairman of meeting.

(5) Every committee, of which there is no *ex-officio* chairman or chairman appointed by the municipal council, shall appoint from time to time its own chairman from among its own members. If there is no chairman, *ex-officio* or appointed by the municipal council.

(*Chapter III—Conduct of Business*)

Procedure at meetings.

35. (1) The provisions of sub-sections (4), (9), (10) and (16) of section 27 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a municipal council contained in those provisions, and as if for the words "municipal council" where they occur in the proviso to clause (*a*) of sub-section (16) of section 27, there were substituted the word "committee."

If the chairman of any committee has been absent from the municipality for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof:

Provided that notwithstanding anything to the contrary contained in sub-section (9) of section 27, committees may record their proceedings either in English or in Kannada as they may think fit.

Committees shall meet when they think proper.

(2) Committees may meet and adjourn as they think proper, but the chairman of a committee may, whenever he thinks fit, and shall, upon the written request of the president of the municipal council or of not less than two members of the committee, and for a date not more than two days after the presentation of such request call a special meeting of such committee.

Number of members required to form quorum at committee meetings.

(3) No business shall be transacted at any committee meeting unless more than one-third of the members of the committee be present thereat.

Procedure by circular.

36. (1) Notwithstanding anything contained in the preceding section, the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own, or of any other member of the committee or of any executive officer of the municipal council, for the observation and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(2) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (15) of section 27, shall obtain thereupon the remarks, if any, which any Government officer, not a councillor, whose presence the municipal council would be entitled to require under the provisions of clause (*b*) of sub-section (16) of section 27, desires to record.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeing is convened to consider the said proposition. Decisions how to be taken on propositions circulated

(4) Every decision arrived at by the committee under this section shall be recorded in the minute-book. and how to be recorded.

37. (1) Every committee shall conform to any instructions that may from time to time be given to it by the municipal council ; the municipal council may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorised or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon. Subordination of committee to instructions of municipal council and compliance with requisitions of municipal council.

(2) Every order passed by a committee appointed under section 30 or 31 shall be subject to revision by, and open to appeal to, the municipal council in accordance with rules that may be framed by the municipal council in this behalf. Orders subject to revision and appeal.

(3) *Delegation of Powers to individuals.*

38. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipal council may be delegated, in accordance with rules to be made by the municipal council in this behalf, to the president or to the vice-president, or to the chairman of any committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on a chief officer under Chapter XIII or on any committee by or under section 30 or 31 ; and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein : Powers, duties and functions may be delegated to officers whose expenses may be paid.

Provided that in a municipality for which there is a municipal commissioner the powers or duties or executive functions under this Act or under any rule or bye-law made hereunder conferred or imposed upon or vested in the municipal commissioner shall not be delegated save as provided in section 250.

(*Chapter III—Conduct of Business*)

(4) *Validity of Proceedings.*

Acts and proceedings of municipal council and committees not vitiated by disqualifications, etc., of members thereof.

39. (1) No disqualification of, or defect in the election or appointment of, any person acting as councillor, or as the president or presiding authority of a general meeting or as chairman of a committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the municipal council or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

No resolution of a municipal council or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any councillor or member, provided that the proceedings of the municipal council or committee were not prejudicially affected by such irregularity.

Proceedings of meetings to be good and valid, until the contrary is proved.

(2) Until the contrary is proved every meeting of the municipal council or of a committee appointed under this Act, in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect municipal council's proceedings.

(3) During any vacancy in a municipal council or committee, the continuing councillors or members may act as if no vacancy had occurred.

(5) *Joint Transactions with other Bodies.*

Joint committees of two or more municipal councils.

40. A municipal council may from time to time join with any other municipal council constituted under this Act or under the [1] Mysore Town Municipalities Act, 1933, or the [1]Mysore Minor Municipalities Act, 1933, or with any district board, or with more than one such municipal council or board

(i) in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee;

1. Repealed and re-enacted as Mysore Town Municipalities Act, 1951.

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the Government or of such officer as it appoints in this behalf, shall be final.

(6) *Contracts.*

Competency of municipal council to lease, sell and contract.

41. (1) Every municipal council shall be competent, subject to the restrictions contained in sub-section (2), to lease, sell or otherwise transfer any moveable or immoveable property which may, for the purposes of this Act, have become vested in or been acquired by it and, so far as is not inconsistent with the provisions and purpose of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes. .

Subject in certain cases to sanction of Government.

(2) In the case of every free grant of immoveable property whatever may be its value and of every lease for a term exceeding seven years, and of every sale or other transfer of immoveable property exceeding two thousand rupees in value the previous sanction of the Government is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(3) In the case—

(*a*) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase of any immoveable property,

(*b*) of every contract which will involve expenditure not covered by a budget grant,

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the municipal council by a resolution passed at a general meeting is required.

Sanction of municipal council when requisite in other cases.

(4) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to a municipal council, if the expenditure which the purchase would involve, or the value of the property to be sold as estimated in the municipal accounts exceeds two thousand rupees, the sanction of the municipal council is required

When tenders should be invited.

(5) Before any contract for the supply of materials or goods or for the execution of any work which will involve an expenditure exceeding five hundred rupees is entered into, tenders shall be publicly invited in such manner as may, from time to time, be determined by the municipal council from persons willing to enter into such contract and, when the estimated value exceeds fifteen thousand rupees, no such contract shall be entered into without the previous approval of the Government or of an officer duly authorised by the Government in this behalf.

Sanction by committees and individuals empowered.

(6) In the case of every contract not otherwise provided for in the preceding sub-sections of this section, the sanction of such committee or of such individual as under the provisions of this Act or of the rules for the time being in force thereunder, is empowered in this behalf, is required.

Mode of executing contracts.

(7) Every contract entered into by or on behalf of a municipal council, other than a contract to which sub-section (6) applies, shall be in writing and shall be signed by the president or vice-president and two other councillors, and shall be sealed with the common seal of the municipal council. Every contract to which sub-section (6) applies shall be executed by the chairman of such committee or by such other individual, as is empowered in that behalf, in such manner and form as, according to the law for the time being in force, would bind such chairman or individual if such contract were executed by him on his own behalf.

Invalidity of contracts unless requirements of section are fulfilled.

(8) No contract shall be binding on a municipal council unless the requirements of this section shall have been complied with.

(9) The provisions of this section shall be subject to the provisions of section 57 and chapters XIII and XIV.

(*Chapter III—Conduct of Business*)

Contracts by officers appointed by Government to execute municipal works and payment for such works.

42. Notwithstanding anything contained in the last preceding section, any person appointed by the Government to carry any work into execution on behalf of a municipal council may, subject to such control as the Government may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution, to the extent of the sum provided for such work; and the municipal council shall pay to the person so appointed such sums as may be required for the said purpose, to the extent aforesaid.

(7) *Compulsory Acquisition of Land.*

Acquisition of land.

43. When any land, whether within or without the limits of the municipality, is required for the purposes of this Act, the Government may, at the request of the municipal council, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and on payment by the municipal council of the compensation awarded under that Act and of any other charges incurred by the Government in connection with the acquisition, the land shall vest in the municipal council.

(8) *Liabilities of Councillors, Officers and Servants.*

Municipal fund ordinarily liable for all costs and expenses incurred by municipal councils.

44. (1) Except as herein otherwise provided, no president or councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of, the municipal council; the municipal fund shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses.

Liability of president, vice-president, members and officers for loss, waste or misapplication.

(2) Every councillor shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the municipal council, to which he has been a party and for any loss or waste of such money or property which has been caused or facilitated by his misconduct. The president, the vice-president, the municipal commissioner, the chief officer, or other officer or person to whom executive powers are delegated or on whom such powers are conferred by or under this Act, shall be liable for such loss, waste or misapplication, if it is a direct consequence of his neglect or has been caused or facilitated by his misconduct.

Officer or servant of any municipal council not to be interested in any contract with such municipal council.

45. (1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of, a municipal council, or in any employment with, under, by, or on behalf of, a municipal council, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipal council.

Effect of acquiring such interest.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

Saving clause.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by, or on behalf of, a municipal council as, under sub-clauses (*i*), (*ii*) and (*iv*) of clause (*c*) of the proviso to sub-section (1) of section 12, it is permissible for a person to have without his being thereby disqualified for being a councillor.

Penalty for councillor, officer or servant of a municipal council being intrested in any contract, etc., with that municipal council.

46. (*a*) Any councillor who knowingly acquires directly or indirectly, any share or interest in any contract or employment with, under, by, or on behalf of, a municipal council of which he is a member, not being a share or interest such as, under section 12, it is permissible for a person to have, without being thereby disqualified for being a councillor, and,

(*b*) any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract, or except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by, or on behalf of, a municipal council of which he is an officer or servant, not being a share or interest such as under sub-clauses (*i*), (*ii*) and (*iv*) of clause (*c*) of the proviso to sub-section (1) of section 12, it is permissible for a person to have without being thereby disqualified for being a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

Notice to sweepers and scavengers before discharge.

47. (1) In the absence of a written contract to the contrary, every sweeper or scavenger employed by the municipal council shall be entitled to one month's notice

before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

Penalty for withdrawal of sweepers and scavengers without notice.

(2) Should any sweeper or scavenger employed by the municipal council, in the absence of a written contract authorising him so to do, and without reasonable cause, resign his employment or absent himself from his duties without giving one month's notice to the municipal council, or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding fifty rupees or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other municipal servants.

(3) The Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to sweepers or scavengers shall apply also to any specified class of municipal servants whose functions intimately concern the public health or safety.

Councillors, etc., to be deemed public servants.

48. (1) Every municipal councillor, officer or servant, every auditor appointed under section 207 and every lessee of the levy of any municipal tax and every servant or other person employed by any such lessee, and every auditor shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1) of this section, be deemed to include a municipal council.

CHAPTER IV.

Rules and By-laws.

Municipal councils to make rules.

49. Every municipal council shall make rules not inconsistent with this Act or with the rules made by the Government under section 228 and may from time to time alter or rescind them—

Regulating the conduct of business.

(*a*) regulating the conduct of its business and the delegation of any of its powers or duties and the appointment and constitution of committees;

Fixing the functions of the president and the establishment.

(*b*) (i) determining the executive functions to be performed by the president, vice-president, the chairman of any committee, the chief officer or the municipal commissioner and the delegation of any of its powers or duties to such persons;

(ii) determining the staff of officers and servants to be employed by the municipal council and the respective designations, duties, salaries, fees, and absentee or other allowances of such officers and servants and the powers and duties delegated to them under section 38;

For general guidance of municipal servants.

(*c*) generally for the guidance of its officers and servants in all matters relating to the municipal administration;

Fixing the amount of the security to be furnished.

(*d*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

Determining mode of appointing, etc., municipal servants; delegating power to appoint, etc.

(*e*) determining the mode and conditions of appointing, punishing or dismissing any officer or servant, and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant;

Granting leave to municipal servants.

(*f*) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

Contributing to provident funds.

(*g*) authorising the payment of contributions at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipal council or with the approval of the municipal council by the said officers and servants;

Prescribing the taxes, etc., to be levied for municipal purposes.

(*h*) prescribing, subject to the provisions of chapter VII, the taxes to be levied in the municipality for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions may be granted, and the system on which refunds are to be allowed and paid, in respect of such taxes and the limits of the charges or payments to be fixed in lieu of any tax under section 83, and the fees to be charged for licenses or permissions granted under section 82, and the times at which and the mode in which

the same shall be levied or recovered or shall be payable, and prescribing the fees for notices demanding payments due on account of any tax, and for the execution of warrants of distress, and the rates to be charged for maintaining any live-stock distrained, and designating the persons authorised to receive payment of any sums so leviable and the manner in which auctions of moveable property under section 97 shall be held;

For writing off amounts due and remitting fees.

(*i*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax or on any other account may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted.

Provided that—

Approval required to rules.

(i) no rule made or any alteration or rescission of a rule made by a municipal council under this section shall have effect unless and until it has been approved by the Government,

(ii) that no municipal council shall, except with the assent of the Government dispense with the services of any officer transferred from the service of the Government to the service of the municipal council or employed partly by the Government and partly by the municipal council or finally dismiss from the service of the municipal council any officer transferred from the service of the municipal council to the service of the Government.

Power to suspend, reduce or abolish any existing tax.

50. (1) Subject to the requirements of proviso (i) to section 49, every municipal council may, except as otherwise provided in clause (*b*) of the proviso to section 86, at any time for any sufficient reason suspend, modify or abolish any existing tax by suspending, altering or rescinding, any rule prescribing such tax.

(2) The provisions of chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

Power to make by-laws.

51. (1) Every municipal council may from time to time, with the previous sanction of the Government make, alter or rescind by-laws, not inconsistent with this Act—

For markets and slaughter houses, etc.

(*a*) for the regulation and inspection of markets, all public places used for the sale of articles and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein ; for regulating the sale of fruit and vegetables in the municipal markets or other specified places ; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipal council ;

For licensing, regulating and inspecting certain businesses.

(*b*) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipal council—

(i) as a slaughter-house ;

(ii) as a market or shop for the sale of animals intended for human food, or of meat or of fish, or as a market for the sale of fruit or vegetables ;

(iii) for any of the purposes mentioned in section 181 ;

(iv) as a dairy, hotel, restaurant, eating-house, coffee-house, sweetmeat-shop, bakery, boarding house, or lodging house (other than a students' hostel under public or recognised control) or for manufacturing ice or ærated waters ;

(v) as a place for the preparation or manufacture of oil ;

(vi) for parching grain or bengalgram on a large scale ; or

(vii) for any other purpose for which the taking out of a license is or may be prescribed ;

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom ;

Regulating the stalling of cattle, etc.

(*c*) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-

laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health ;

For regulating dairies and cattle-sheds.

(*d*) (i) for the inspection of milch-cattle, and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milk-sellers ;

Milk stores, etc.

(ii) for securing the cleanliness of milk stores, milk shops and vessels used by milk-sellers or buttermen for milk or butter ;

For inspection of weights and measures.

(*e*) for the inspection of instruments for weighing and weights and measures under section 173 ;

For registration of births, etc.

(*f*) for the registration of births, deaths and marriages, and the taking of a census within the municipality and for enforcing the supply of such information as may be necessary to make such registration or census effective ;

Regulating the disposal of the dead.

(*g*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead ;

For enforcing information as to epidemics.

(*h*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 174, 175 and 177 ;

For enforcing information as to liability to municipal taxation.

(*i*) for enforcing the supply of such information by inhabitants of the municipality as may be necessary to ascertain their respective liabilities to any tax imposed therein ;

(*j*) for the numbering and registration of any vehicle liable to taxation under this Act ;

Octroi by-laws.

(*k*) fixing octroi limits and stations ; providing for the exhibition of tables of octroi requiring a license to be obtained for the sale of any article liable to octroi and prescribing the conditions on or subject to which such license may be granted, refused, suspended or withdrawn ;

regulating, subject to any general or special orders which the Government may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipality; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made;

Terminal Tax.

(*l*) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax;

For protecting water.

(*m*) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water whether within or without the limits of the municipality; and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water and the construction, maintenance and control of municipal water-works and of pipes and fittings in connection therewith, whether the property of the municipal council or not;

Explanation.—Sources and means of water-supply shall include private wells which are used by the public.

Regulating public baths, etc.

(*n*) regulating the use of public bathing and washing places within municipal limits;

For conservancy.

(*o*) regulating sanitation and conservancy;

For constructing houses for the poor.

(*p*) regulating the conditions for the construction, use and disposal of houses intended for the poor under clause (*c*) of section 61;

For the disposal of carcasses.

(*q*) regulating the disposal of carcasses of dead animals;

Regulating structures and buildings.

(*r*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of, temporary structures on public streets or for projections over public streets, and regulating the structure and dimensions of plinths, walls, foundations, floors,

roofs and chimneys of new buildings, for the purpose of securing stability and the prevention of fires, and for purposes of health ;

(*s*) regulating the erection or use of buildings for grain shops or grain stores and regulating the use of sites for erection of buildings and regulating in localities intended for residential purposes, the erection or use of buildings for shops, market places, manufactories, places of public resort or for any other purpose ; For regulating construction or use of buildings.

(*t*) for preventing the erection of buildings without adequate provision being made for the laying out and location of streets ; For providing for streets.

(*u*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ; For ensuring ventilation.

(*v*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, watercloset, privies, latrines, urinals and drainage or sewerage works of every description, whether the property of the municipal council or not ; Control of drains.

(*w*) determining the information and plans to be required by the municipal council under sections 107 and 115 ; Requiring information and plans in certain cases.

(*x*) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up posts at both ends of such street or portion of such street ; prohibiting the transit of any vehicles of such form, construction, weight or size, or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians, along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants and other general precautions as may be prescribed, either generally in such by-laws, or in special licenses to be granted in each For controlling unwieldy traffic.

case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws :

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the municipal council in conspicuous places at or near both ends of such street or portion of a street ;

Public parks.

(*y*) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipal council, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them ;

Requiring qualified surveyors and plumbers.

(*z*) prescribing the qualifications of surveyors or persons by whom plans required under section 115 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licenses ; and for modifying the provisions of, or revoking such licenses ; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house-connections being carried out or made, except by such persons ;

For licensing factories, the use of steam whistles, etc.

(*aa*) prescribing the conditions on or subject to which and the circumstances in which, and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the establishment in any premises, of any factory as defined in the Mysore Factories Act, 1914, or for the use of whistles and trumpets, operated by steam, mechanical means or electricity in factories or other places for the purposes of summoning or dismissing workmen or persons employed ;

General.

(*ab*) generally for the regulation of all matters relating to municipal administration.

Fine may be imposed for infringement of by-laws.

And every municipal council may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law.

Publication of drafts of proposed by-laws.

(2) Every municipal council shall, before making any by-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of

the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Government.

(3) When any by-law made by a municipal council is submitted to the Government for sanction, a copy of the notice published as aforesaid and of every objection or suggestion so made, shall be submitted for the information of the Government along with the said by-law.

Rules and by-laws to be printed and sold.

52. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in English as well as in Kannada shall be kept on sale at cost price.

CHAPTER V.

Municipal Property and Fund.

Power to acquire and hold property.

53. (1) Every municipal council may acquire and hold property both movable and immovable, whether within or without the limits of the municipality.

Property vested in the municipal council.

(2) All property of the nature hereinafter in this section specified, and not being specially reserved by the Government, shall be vested in and belong to the municipal council and shall, together with all other property of what nature or kind soever, not being specially reserved by the Government, which may become vested in the municipal council, be under its direction, management and control, and shall be held and applied by it as trustee, subject to the provisions and for the purposes of this Act; that is to say—

(a) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depots;

(*b*) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines,

works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind collected by the municipal council from the streets, houses, privies, sewers, cesspools or elsewhere;

(*d*) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto;

(*e*) all lands and buildings transferred to it by the Government, or by gift or otherwise, for local public purposes;

(*f*) all public streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

Power to Government to resume property.

(3) It shall be competent to the Government from time to time, by notification, to resume any property vested or vesting in the municipal council under this section on such terms as the Government may determine.

Municipal fund.

54. All money received by or on behalf of the municipal council by virtue of this or any other Act; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by it under this Act; all proceeds of land or other property sold by the municipal councils, and all rents accruing from its land or property; as also all interest, profits and other moneys accruing by gifts or transfers from the Government or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section:

Provision as to special trusts.

Provided that nothing in this section, or in the last preceding section, shall in any way affect any obligations accepted by or imposed upon any municipal council by any declarations of trust executed by or on behalf of such municipal council, or by any scheme settled by order of the Government for the administration of any trust.

(Chapter VI—Obligatory and Discretional Functions of Municipal Councils)

Application of municipal fund and property.

55. The municipal fund and all property held by or vested in the municipal council under this Act shall be applied, subject to the provisions of this Act for the purposes specified in sections 58, 59 and 61 and for all other purposes for which by or under this Act or any other law for the time being in force, powers are conferred or duties imposed upon the municipal council and with the previous sanction of the Government for any other purpose for which the application of such property or fund is in the public interest.

Power to deposit and invest surplus funds.

56. (1) It shall be lawful for the municipal council to deposit at interest with the Government savings bank, or with the sanction of the Government in any other bank in or outside of Mysore, any surplus funds in its hands which may not be required for current charges, and with the like sanction to invest such funds in public securities in the name of the municipal council, and from time to time dispose of such securities as may be necessary.

Surplus not so deposited or invested how to be dealt with.

(2) All surplus funds over and above what may be required for current expenses shall, unless deposited or invested as provided for in sub-section (1), be deposited in the local Government treasury, or such other place of security as may be sanctioned by the Government.

Power of municipal councils to borrow money.

57. A municipal council may, in pursuance of a resolution passed at a special general meeting and with the previous sanction of the Government and subject to such conditions as may be prescribed by the Government as to security, the rate of interest and the repayment of principal and interest, borrow either from the Government or from any person, any sum of money required for constructing any work of a permanent nature which it is required or empowered to undertake under the provisions of this Act.

CHAPTER VI.

Obligatory and Discretional Functions of Municipal Councils.

Duties of municipal councils.

58. It shall be the duty of every municipal council to make reasonable provision for the following matters within the municipality under its authority, namely :—

(*a*) lighting public streets, places and buildings;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or not ; removing noxious vegetation ; and abating all public nuisances ;

[1][(*ca*) disposing of, and, if so required by the State Government, preparation of compost manure from night-soil and rubbish.

Explanation.—In this clause, rubbish includes dust, ashes, broken bricks, mortar, sewage, dung, dirt, putrid and putrifying substances and refuse of any kind.]

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipal council or belong to the Government ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

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1. Inserted by Act XIII of 1950.

(*l*) registering births and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipality for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(*p*) arranging for the destruction or the detention and preservation of such dogs within the municipality as may be dealt with under the law in force relating to police or under section 149 of this Act ;

(*q*) providing facilities for anti-rabic treatment and meeting the expenses of indigent persons undergoing anti-rabic treatment within or outside the municipal limits ;

(*r*) housing and maintaining destitute orphans and destitute cripples ;

(*s*) printing such annual reports on the municipal administration of the municipality as the Government by general or special orders requires the municipal council to submit ;

(*t*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipal council for the purposes of this Act or for the protection of any municipal property, and providing such accommodation as may be required by the Government under the law in force relating to police.

Special duties.

59. Subject to such reasonable provision as is mentioned in section 58, every municipal council shall make reasonable provision for the following special matters, namely :—

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak, or suppress and prevent the recurrence, of the disease ;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipality.

(Chapter VI—Obligatory and Discretional Functions of Municipal Councils)

Power of Government to exempt municipal council from any of the duties.

60. Notwithstanding anything contained in sections 58 and 59, the Government may exempt any municipal council from any of the provisions of those sections or may declare that in regard to any municipal council any of the duties specified in the aforesaid sections shall be deemed to be discretionary duties within the meaning of section 61.

Discretionary powers of expenditure of municipal council.

61. Municipal councils may, at their discretion, provide out of the said property and fund, either wholly or partly, for

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, including the land requisite for the construction of buildings or curtilages thereof, to abut on such streets;

(*b*) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharmasalas, rest-houses and other public buildings;

(*c*) constructing and maintaining, where necessary, suitable sanitary houses for the habitation of the poor and granting loans for the construction of such houses or for effecting necessary improvements connected therewith;

(*d*) on such terms and conditions as the Government approves, the promotion, formation, extension or assistance of—

(1) a co-operative society for the benefit of municipal employees; or

(2) any provident fund or benefit society whose objects include the erection, improvement, maintenance or management of suitable accommodation for the poorer and working classes

by any or all of the following means:—

(*i*) the acquisition of land with a view to selling or leasing the same to such society; or

(*ii*) the making of grants or loans thereto; or

(*iii*) subscription for any share capital therein; or

(*iv*) guaranteeing the payment of interest on money borrowed by such society or of any share capital issued thereby;

(*e*) providing accommodation for any class of servants employed by the municipal council or granting loans to such servants for construction of houses subject to the rules prescribed in this behalf;

(*f*) granting loans to encourage local arts and industries;

(*g*) planting and maintaining roadside and other trees;

(*h*) taking a census; and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*i*) making a survey;

(*j*) securing or assisting to secure suitable places for the carrying on of the offensive trades mentioned in section 181;

(*k*) supplying, constructing and maintaining receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipal council;

(*l*) establishing and maintaining a farm or factory for the disposal of sewage;

(*m*) providing music for the people;

(*n*) the establishment and maintenance of dairy farms;

(*o*) with the sanction of the Government, the construction, purchase, organisation, maintenance or management of—

(i) light railways and tramways, or

(ii) motor or other transport facilities for the carriage of the public,

or guaranteeing the payment from the municipal fund of such sums as the municipal council shall think fit as interest on capital expended by the Government or a company for the aforesaid purposes;

or granting loans for providing capital for any of the said purposes;

(*p*) the maintenance of an ambulance service;

(*q*) the promotion of public health or infant welfare ;

(*r*) contribution towards any public fund raised for the relief of human suffering within or without the municipality ;

(*s*) by a resolution passed at a general meeting and supported by one-half of the whole number of councillors, and with the previous sanction of the Government, any public reception, ceremony, entertainment or exhibition within the municipality ;

(*t*) the organisation or maintenance during scarcity of shops or stalls for the sale of necessaries of life ; and

(*u*) any other matter not hereinbefore specifically named which is likely to promote education or the public health, safety or convenience or the advancement of the economic condition of the inhabitants or which is necessary for the carrying out of this Act, expenditure whereon is resolved by the municipal council by the votes of not less than one-half of the whole number of councillors and with the approval of the Government to be an appropriate charge on the municipal fund.

Arrangements purporting to be binding permanently or for a term of years.

62. When a municipal council has entered into any arrangement, or made any promise, purporting to bind itself or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the municipal council or its successors, with the sanction of the Government, to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

Management of public institutions maintained by municipal councils to vest in it.

3. The management, control and administration of every public institution exclusively maintained out of municipal property and funds shall vest in the municipal council by which it is maintained.

CHAPTER VII.

MUNICIPAL TAXATION.

(1) *Imposition of Taxes.*

64. Any municipal council—

Taxes which may be imposed.

(*a*) after observing the preliminary procedure required by section 65, and

(*b*) with the sanction of the Government, and subject to such modifications or conditions as under section 66 the Government in according such sanction deems fit, may impose, for the purposes of this Act, any one or more of the following taxes at rates not exceeding those prescribed in schedules I to VI [1][except the levy under clause (xiii) which shall be levied in accordance with the provisions of section 67-A],

(i) a rate on buildings or lands or both situated within the municipality;

(ii) a tax on all or any vehicles, boats or animals used for riding, draught or burden, kept within the said municipality for use;

(iii) a toll on vehicles entering the said municipality, but not liable to taxation under the clause last preceding;

(iv) an octroi on animals or goods, or both brought within the octroi limits for consumption or use therein;

(v) a terminal tax on goods imported or exported from the terminal tax limits:

provided that a terminal tax and an octroi shall not be in force in any municipality at the same time;

(vi) a tax on dogs kept within the said municipality;

(vii) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

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1. Added by Act XXXII of 1943.

(viii) a general sanitary cess for the construction or maintenance, or both construction and maintenance, of public latrines, and for the removal and disposal of refuse ;

(ix) a water-rate or water rates for water supplied by the municipal council, which may be imposed in the form of a rate assessed on buildings and lands, or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of cases or of any individual case ;

(x) a lighting tax ;

(xi) a tax on arts, professions, trades and callings, and on offices and appointments ;

(xii) a tax on shops and other places where a business or profession is carried on for purpose of profit, payable by the person or persons engaged in the business or profession :

provided that where the municipal council elects to levy a tax under this clause, the person or persons paying the tax shall not be called upon to pay a tax on professions, trades and callings under clause (xi) in respect of the business or professions carried on in the shop or place ;

[1](xiii) a duty on certain transfers of immovable property in the shape of an additional stamp duty ;

[2](xiv) any other tax to the nature and object of which the approval of the Government shall have been obtained prior to the selection contemplated in clause (*a*) of section 65.

Provided that—

(*a*) no tax imposed as aforesaid other than a special sanitary cess or water-rate shall, without the express consent of the Government, be leviable in respect of—

(i) any building or part of any building belonging to the Government and used solely for public purposes and not used or intended to be used for residential purposes or for purposes of profit ;

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1. Inserted by Act XXXII of 1943.
2. Renumbered as clause (xiv) by Act XXXII of 1943.

(ii) any vehicle, animal or other property belonging to the Government and used solely for public purposes and not used or intended to be used for purpose of profit;

(iii) any building or part of a building used as a place of public worship or used for a charitable purpose;

[1][(*b*) no tax of any kind imposed as aforesaid shall be leviable in respect of the Palace in Mysore City;]

(*c*) no toll shall be leviable in respect of any vehicle used for the passage of troops [2] x x x x x or of Government stores or of any other Government property or for the passage of military or police officers on duty or the passage or conveyance of any person or property in their custody;

(*d*) the Government may by order grant and define other exemptions in exceptional cases from payment of tolls or other taxes imposed under this Act;

(*e*) no tax shall be leviable in respect of horses, being registered chargers of the officers of the Mysore State Troops or of the British Indian Army, or in respect of one bicycle and one horse kept by the members of the Mysore police force or the police force of the Civil and Military Station, Bangalore, for the performance of their official duties;

(*f*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds, unless and until the municipal council has

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the municipality or part of the municipality to be charged with such cess one month's notice of the intention of the municipal council to perform such cleansing and to levy such cess;

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1. Substituted by Act 19 of 1954.
2. Certain words omitted by Act 19 of 1954.

(*g*) the municipal council, in lieu of imposing separately any two or more of the taxes described in clauses (i), (viii), (ix) and (x), may impose a consolidated tax, assessed as a rate on buildings or lands, or both, situated within the municipality.

Procedure preliminary to imposing.

65. A municipal council before imposing a tax shall observe the following preliminary procedure:—

(*a*) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 64 and prepare rules for the purposes of clause (*h*) of section 49, prescribing the tax selected, and in such resolution and in such rules specify—

(i) the classes of persons or of property or of both which the municipal council proposes to make liable, and any exemptions which it proposes to make;

(ii) the amount or rate at which the municipal council proposes to assess each such class;

(iii) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed;

(iv) all other matters which the Government may require to be specified therein.

(*b*) When such resolution has been passed, the municipal council shall publish the rules so prepared with a notice in the form of schedule VII prefixed thereto.

(*c*) Any inhabitant of the municipality objecting to the imposition of the said tax or to the amount or rate proposed, or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipal council; the municipal council shall take all such objections into consideration, or shall authorise a committee to consider the same and report thereon; and unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed

in accordance therewith, together with the notice and rules aforesaid to the Government.

Power to sanction, modify and impose conditions.

66. The Government may either refuse to sanction the rules submitted, or may return them to the municipal council for further consideration, or if no objection, or no objection which is in its opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject

(i) to such modifications not involving an increase of the amount to be imposed or,

(ii) to such conditions as to the application within the municipality to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax, as it deems fit.

Publication of sanctioned rules with notice

67. All rules sanctioned under section 66 with all modifications subject to which the sanction is given, shall be published by the municipal council in the municipality for which they are prescribed, together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipal council in accordance with all conditions, if any, subject to which under section 66 the sanction was given :

Provided that—

(*a*) a tax leviable by the year,

(i) shall not come into force except on one of the following dates, *viz.*, the first day of July—the first day of October—the first day of January—the first day of April—in the official year in which such notice is published, and

(ii) if it comes into force on any day other than the first of July it shall be leviable by the quarter till the first day of July then next ensuing,

(*b*) on or before the day on which a notice is issued under this section, the municipal council shall publish such further detailed rules as may be required, and as may have been approved by the Government under proviso (i) to section 49, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable,

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

Duty on transfers of immovable properties.

[1][67-A. (1) The duty on transfers of immovable property shall be levied in the form of a surcharge on the duty imposed by the Mysore Stamp Act, 1900, on instruments of sale, gift and mortgage of immovable property situated within the limits of the Municipality at a rate not exceeding one per centum on, as the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgage, as set forth in the instrument:

Provided that no such duty is leviable in respect of mortgages where the amount secured by a mortgage does not exceed Rs. 2,500.

(2) On the introduction of the transfer duty—

(*a*) section 27 of the Mysore Stamp Act, 1900, shall be read as if it specifically required the particulars to be set forth separately in respect of property situated within and without the Municipality.

(*b*) section 64 of the same Act shall be read as if it referred to the Municipal Council as well as the Government.

1. Inserted by Act XXXII of 1943.

(3) The Government may make rules for regulating the collection of the duty, the payment thereof to the municipal council and the deduction of any expenses incurred by the Government in the collection thereof.

(4) No duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of the Government in cases where but for this exemption the Government would be liable to pay the transfer duty under this section in respect of such instrument.]

Seizure of vehicles not bearing numbers, and procedure after seizure.

[1][**67-B.** (1) If any direction for the numbering and registration of a vehicle contained in a bye-law made under clause (*j*) of sub-section (1) of section 51 is not observed in respect of any vehicle, then any authority empowered in this behalf by the municipal council may, at any time, seize and detain the vehicle or the animal, if any, by which it is drawn or both :

Provided that no vehicle other than a bicycle, tricycle or rikshaw shall be seized and detained when actually employed in the conveyance of any passenger or goods.

(2) If a vehicle or animal is detained under sub-section (1) and the owner or other person entitled thereto does not claim the same and pay the tax, if any, due thereon and other amounts due under sub-section (4) within ten days from the date of seizure, such authority as the municipal council may empower in this behalf may direct that the vehicle or animal shall be sold in public auction and the proceeds of the sale applied to the payment of—

(*a*) the tax, if any, due on the vehicle,
(*b*) such penalty not exceeding the amount of the tax as the authority may direct, and
(*c*) the charges incurred in connection with the seizure, detention and sale.

(3) If there is a surplus after such payment, the municipal council shall, on demand made within six months from the date of sale, make it over to the owner

1. Inserted by Act XXXV of 1943.

or other person entitled thereto. If no such demand is made, such surplus shall be forfeited to the municipal council.

(4) If the owner of the vehicle or animal or other person entitled thereto claims the same within ten days from the date of seizure or at any time before the sale, it shall be returned to him on payment of—

(*a*) the tax due on the vehicle,

(*b*) such penalty not exceeding the amount of the tax as the authority specified in sub-section (1) may direct, and

(*c*) the charges incurred in connection with seizure and detention.]

(2) *Assessment of and liability to rates.*

Appointment of assessor.

68. (1) For assessing taxes imposed in the form of a rate on buildings or lands or both, the municipal council shall, with the previous sanction of the Government, appoint an assessor.

(2) The municipal council may also assign to the assessor any other work which in its opinion he can perform without prejudice to his duties as assessor.

Preparation of an assessment list.

69. (1) When a rate on buildings or lands or both is imposed, the assessor shall cause an assessment list of all buildings, or lands, or buildings and lands in the municipality to be prepared, containing—

(*a*) the name of the street or division in which the property is situated;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) names of the owner and occupier, if known;

(*d*) the annual letting value or other valuation on which the property is assessed; and

(*e*) the amount of the tax assessed thereon.

Power to inspect.

(2) For the purpose of making such assessment as aforesaid, the assessor and any person appointed to assist him in his work may make an inspection of such property.

Returns to be furnished.

(3) On the requisition of the assessor, the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature—

(*a*) as to the name and place of abode of the owner or occupier, or of both ;

(*b*) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

70. (1) When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment list, and in any notice which it may be necessary to serve upon the said person under this Act, " the holder " of such premises without further description.

Occupier liable for a rate on buildings or lands or both until he gives information.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Publication of notice of assessment list.

71. When the assessment list has been completed, the assessor shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment list.

72. (1) The assessor shall, at the time of the publication of such assessment list, give public notice of a time, not less than one month thereafter, when the revising authority will proceed to revise the valuation and assessment ; and in all cases in which any property is for the first time assessed or the assessment is increased, the assessor shall also give notice thereof to the owner or occupier of the property, if known and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous place on the property.

Revising authority.

(2) In a municipality for which there is a municipal commissioner, such municipal commissioner and elsewhere the managing committee or any committee or committees to which the municipal council delegates the powers and functions of the managing committee in this behalf or any officer of the Government to whom with the permission of the Government the municipal council delegates, and it is hereby empowered to delegate, the powers and functions of the managing committee in this behalf, shall be the revising authority to whom objections under sub-section (1) may be made.

Objections how to be made.

(3) All objections to the valuation and assessment shall be made to the assessor before the time fixed in the notice, by application in writing stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the assessor for the purpose.

Hearing of objections.

(4) The revising authority shall, after allowing the applicant an opportunity of being heard in person or by agent,

(*a*) investigate and dispose of the obligations,

(*b*) cause the result thereof to be noted in the book kept under sub-section (3), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list.

(5) From every order of the municipal commissioner under sub-section (4), there shall be an appeal in accordance with the rules to be framed by the municipal council in this behalf to the managing committee whose decision shall be final, notwithstanding anything contained in sub-section (2) of section 37.

Authentication of list.

(6) When all objections made under this section and appeals under sub-section (5), have been disposed of and all amendments in accordance with sub-sections (4) and (5) have been made in the assessment list, the said list shall be authenticated by the revising authority.

Custody and inspection of list.

(7) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property

specified therein, or to the agents of such persons and a notice that it is so open shall be forthwith published.

Authenticated list how far conclusive.

(8) Subject—

(*a*) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

(*b*) to the result of any appeal made under section 101,

the entries in the list so authenticated and deposited shall be accepted as conclusive evidence—

(i) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

Amendment of assessment list.

73. (1) The municipal council may at any time alter the assessment list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment list through fraud, accident or mistake, or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

Objections how dealt with.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (3) of section 72, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(3) An entry or alteration made under this section shall, subject to the provisions of section 101, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the

day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed ; and the tax or the enhanced tax, as the case may be, shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

Notice to be given to the municipal council of demolition or removal of a building.

74. (1) When any building or any portion of a building which is liable to the payment of a rate on buildings or lands or both is demolished or removed, otherwise than by order of the municipal council, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the municipal council.

(2) Until such notice is given, the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(3) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assessment list need not be prepared every year.

75. (1) It shall not be necessary to prepare a new assessment list every year. Subject to the condition that every part of the assessment list shall be completely revised not less than once in every four years, the assessor may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(2) But the provisions of sections 71, 72 and 73 shall be applicable every year as if a new assessment list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

76. Every tax imposed in the form of a rate on buildings or lands or on both shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or lands, or holds them on a building or other lease from

the Government or from the municipal council, or on a building lease from any person. Otherwise, the said tax shall be primarily leviable as follows, namely :

(*a*) if the property is let, from the lessor ;

(*b*) if the property is sublet, from the superior lessor ;

(*c*) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due, as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list, whichever of those two amounts is the greater.

Remedy of occupier in such case.

Provided further, that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Notice to be given to municipal council of all transfers of title by persons primarily liable to payment of taxes on buildings or lands.

77. (1) Whenever the title of any person primarily liable for the payment of a tax imposed on any premises in the form of a rate on buildings, or lands or both to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall give notice of such transfer in writing to the municipal council.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise shall give notice of such transfer to the municipal council.

Form of notice.

78. (1) The notice to be given under the last preceding section shall be in the form either of schedule VIII or schedule IX, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the municipal council may, if it thinks it necessary, require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Mysore Registration Act, 1903.

Name of transferee to be substituted in the municipal registers.

79. Whenever such transfer comes to the knowledge of the municipal council either through such notice or otherwise, and after such enquiry as may be necessary, the name of the transferee shall be substituted in the municipal registers for that of the person primarily responsible.

Liability for payment of taxes on buildings or lands continue in the absence of notice of transfer.

80. (1) Every person, primarily liable for the payment of a tax imposed on any premises in the form of a rate on buildings or lands, who transfers his title to or over such premises without giving notice of such transfer to the municipal council as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all taxes from time to time payable in respect of the said premises, until he gives such notice, or until the transfer shall have been recorded in the registers of the municipal council.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said taxes or to affect the prior claim of the municipal council on the premises conferred by section 102 for the recovery of the taxes due thereupon.

Remission of tax in case of vacancies; when obligatory.

81. (1) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year or in respect of which a special sanitary cess is payable by the year, or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable or throughout the period in respect of which any such instalment is payable, the municipal council shall remit or refund not less than two-thirds of the amount of the rate, or of the cess, or instalment of the cess, as the case may be:

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to

the municipal council, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

When discretional.

(2) When any such building or land as aforesaid—

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consists of separate tenements, one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the municipal council may remit or refund such portion, if any, of the rate or cess or instalment as it may think equitable.

Burden of proof on claimant.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Explanatory clause.

(4) For the purposes of this section, a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

(3) *Power to charge fees.*

Municipal council may charge fees for certain licenses.

82. (1) When any license is granted by the municipal council under this Act, or when permission is given by it for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the municipal council, the municipal council may charge a fee for such license or permission.

Levy of fees for unauthorised occupation or projection.

(2) The municipal council may charge a higher fee by way of penalty for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipal council by any person without its permission or license. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force. The rates of such higher fees shall be determined by rules.

Market and other fees.

(3) The municipal council may also charge such fees as may be fixed by by-laws [1][either] under clause (*a*) of sub-section (1) of section 51 for the use of any such places mentioned in that sub-section, as belong to the municipal council, [2][or for any other purpose relating to municipal administration.]

Farming of fees.

(4) It shall be lawful for the municipal council to lease the levy of any fee that may be imposed under sub-section (3) by public auction or private contract.

Power of lessee to expel persons who refuse to pay fees.

(5) When any fee has been leased under sub-section (4), any person employed by the lessee to collect such fees or the lessee himself may, subject to the conditions of the lease, collect the fee or expel from the place for the use of which the fee is payable any person who is liable to pay the fee but refuses to pay it.

(4) *Special provisions relating to certain taxes.*

Fixed charges and agreements for payment in lieu of taxes for water supplied.

83. (1) The municipal council may, instead of imposing a water-rate, or where a water-rate has been imposed in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipal council to, or for use in connection with, any private lands or buildings,

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 49, charges for such supply according to the quantity used as ascertained by measurement,

(*b*) arrange with any person, on his application, to supply on payment, periodical or otherwise, water belonging to the municipal council in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or otherwise, on such terms and subject to such conditions as it shall fix by agreement with such person :

Provided that—

(*a*) the meter, connection pipes and all other works necessary for and incidental to such supplies, and all future repairs, extensions and alterations of such works shall be under the control of the municipal council, and

1. Inserted by Act IX of 1943.
2. Added by Act IX of 1943.

the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipal council, be defrayed by the persons liable in respect of such supplies, and

(*b*) all such supplies of water shall be, and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof, and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 51.

Power to fix a special rate in lieu of special sanitary cess.

(2) When the municipal council has made provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate, and the dates and other conditions for periodical payments thereof, which shall be determined either ;

(*i*) in accordance with the rules for the time being in force under section 49, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess, provided that, in fixing the amount, proper regard be had to the probable cost to the municipal council of the service to be rendered.

Power to compound tax on vehicles or animals.

(3) When the municipal council has imposed a tax on vehicles or animals used for riding, draught or burden and kept within the municipality for use, it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire, for the payment of a lumpsum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Composition of toll.

(4) The municipal council may compound for a period not exceeding one year at a time, with any person for a sum to be fixed in accordance with a scale approved by the municipal council and to be paid monthly, quarterly, or half-yearly in advance in lieu of all tolls payable in respect of any vehicle belonging to such person and issue a pass for the free admittance of the vehicle or animal, within the limits of the municipality, provided

that the sum charged shall not be less than one-half of the amount which such person would have been liable to pay if the vehicle had to pay toll once every day during the period for which the pass is issued.

Recovery of sums claimed under this section.

(5) Every sum claimed by the municipal council as due under sub-section (1) as a charge fixed by agreement or otherwise on account of water-supply, or as expenses to be defrayed such as are referred to in that sub-section, or as a special rate under sub-section (2) or as a lumpsum payable under sub-sections (3) and (4) shall for the purposes of chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said chapter.

Certain rights not affected by section 83.

84. Nothing contained in section 83 shall affect the right or powers of the municipal council to contract with any person to supply for use beyond the limits of the municipality, at such rates and on such conditions as the municipal council may think fit, any quantity of water belonging to the municipal council but not required for the purposes of this Act.

Power of Government to suspend or prohibit levy of objectionable taxes.

85. If it shall at any time appear to the Government on complaint made or otherwise, that any tax leviable by a municipal council, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interests of the general public, the Government may require the said municipal council, within such period as it shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax, and if, within the period so fixed, such requirements shall not be carried into effect to the satisfaction of the Government, it may, by notification in the official Gazette, suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

The Government may at any time, by a like notification, rescind any such suspension.

Power of Government to require municipal council to impose taxes.

86. Whenever it appears to the Government that the balance of the municipal fund of any municipal council is insufficient for meeting the expenditure incurred under section 219 or under section 221 or for the performance of any duties in respect of which it shall have been

declared under section 224 to have committed default, the Government may by notification require the municipal council to impose, within the municipality, any such tax specified in the notification as may be imposed under section 64 if no such tax is at the time imposed therein, or to enhance any existing tax in such manner or to such extent as the Government considers fit, and the municipal council shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this chapter, as if a resolution of the municipal council had been passed for the purpose under section 65 :

Provided that—

(*a*) the Government shall take into consideration any objection which the municipal council or any inhabitant of the municipality may make against the imposition or enhancement of such tax,

(*b*) it shall not be lawful for the municipal council to abandon or modify or to abolish such tax when imposed, and

(*c*) the Government may at any time cancel or modify any requisition made by it under this section, and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

(5) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

87. Every municipal council when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*k*) of sub-section (1) of section 51, after observing the requirements of sub-sections (2) and (3) of that section.

Power to examine articles liable to octroi.

88. (1) Every person bringing into, or receiving from beyond the octroi limits of a municipality any article on which octroi is payable shall, when required by an officer authorised in this behalf by the municipal council and so far as may be necessary for ascertaining the amount of tax chargeable,

(*a*) permit that officer to inspect, examine and weigh and otherwise deal with the article ; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.

Power to search where octroi is leviable.

(2) If any person bringing into, or receiving from beyond the octroi limits of a municipality in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorised by the municipal council in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a magistrate or such officer of the municipal council as the Government appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

89. (1) Every officer demanding octroi by the authority of the municipal council shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

(2) If goods passing into a municipality are liable to the payment of octroi, then every person who, with the intention to defraud the municipal council, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said municipality, any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall on conviction by a magistrate be punishable with fine which may extend to ten times the value of such octroi or to fifty rupees whichever may be greater.

Penalty for selling articles liable to octroi without a licence or for being in possession of any such article on which octroi has not been paid.

[1][**90.** (1) Any person,—

(*a*) selling or keeping for sale without a licence any article liable to octroi and for the sale of which a licence is required to be obtained, or

(*b*) having in his possession any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained,

shall be liable, on conviction before a Magistrate, to a fine not exceeding ten times the octroi due on all the

1. Substituted by Act VII of 1940.

articles so sold or kept for sale, or possessed, or one hundred rupees, whichever may be greater ; and

Seizure of articles on which octroi duty has not been paid and arrest of person in possession of such articles.

(2) Any officer of the municipal council authorised by the municipal council in this behalf, if he has reason to believe that any article on which octroi has not been paid but which is liable to octroi and for the sale of which a licence is required to be obtained is kept or concealed in any premises may, after obtaining the warrant of a magistrate, enter and search at any time such premises and if he finds any such article on which octroi has not been paid, may seize any such article and arrest any person in possession of the same :

Provided that any article or person so seized or arrested shall be produced before a magistrate exercising jurisdiction within the municipality within twenty-four hours from the time of such seizure or arrest :

Provided also that nothing in this section shall apply to any article liable to octroi and for the sale of which a licence is required to be obtained, if the value of such article does not exceed two hundred rupees in value and if it is kept by any person for the personal use of himself or any member of his family or sold by such person when not required for such use.

Searches and arrests to be governed by the Code of Criminal Procedure, 1904.

(3) The provisions of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to all searches and arrests effected under this section.]

Tables of tolls to be shown on demand.

91. Every municipal council imposing any toll under this Act shall cause to be kept at each place, where such toll is to be collected, a table in Kannada showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments, and it shall be the duty of every person authorised to demand payment of a toll, to show such table, on the request of any person on whom such demand is made.

Power to seize vehicle on non-payment of octroi or toll.

92. (1) In the case of non-payment on demand of any octroi or of any toll leviable by a municipal council, the person appointed to collect such octroi or toll may seize any article on which the octroi is chargeable or any vehicle on which the toll is chargeable or any part

of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, or article seized a list of the property together with a written notice in the form of Schedule XII.

Notice of sale.

(2) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment.

(3) If at any time before the sale has begun, the person whose property has been so seized tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the municipal council shall forthwith release the property seized.

Sale.

(4) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(5) The surplus, if any, of the sale proceeds shall be credited to the municipal fund, and may, on application made to the municipal council in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the municipal council.

Power to keep account current with firm or public body in lieu of levying octroi on introduction of goods.

93. The municipal council, if it thinks fit, instead of requiring payment of octroi, due from any mercantile firm or public body, to be made at the time when the articles in respect of which it is leviable are introduced within the octroi limits of the municipality, may at any time direct that an account current shall be kept on behalf of the municipal council of the octroi so due from any such firm or body as the municipal council specifies in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the municipal council or any committee or officer authorised

by it in this behalf, shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter.

Farming of tolls.

94. (1) It shall be lawful for the municipal council to lease annually the levy of any toll that may be imposed under this Act by public auction or private contract.

(2) Where any toll has been leased under this section, any person employed by the lessee to collect such tolls shall, subject to the conditions of the lease, have the powers referred to in sub-sections (1) and (2) of section 92 ; provided that no article distrained may be sold except under the orders of the municipal council.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

95. (1) When any amount—

(*a*) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or

(*b*) which, not being leviable under sub-section (1) of section 92, or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipality,

shall have become due, the municipal council shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof, a bill for the sum claimed as due.

Contents of bill.

(2) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which,

the sum is claimed, and shall also give notice of—

(i) the liability incurred in default of payment, and of

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(3) If the sum for which any bill has been presented as aforesaid is not paid into the municipal office, or to a person authorised by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the municipal council may cause to be served upon the person to whom such bill has been presented a notice of demand in the form of Schedule X, or to the like effect.

In what cases warrant may issue.

96. (1) If the person on whom a notice of demand has been served under section 95, sub-section (3), does not, within fifteen days from the service of such notice of demand, either—

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the municipal council, or of such officer as the municipal council by rule may appoint in this behalf, or of the chief officer, or of the municipal commissioner, if any, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 101 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the municipal council in the form of Schedule XI or to the like effect, by distress and sale of the movable property of the defaulter.

Warrant by whom to be signed.

(2) Every warrant issued under this section shall be signed by the president of the municipal council causing the same to be issued, or by an officer to whom the municipal council has delegated its powers under section 38 or by the chief officer, or by the municipal commissioner, if any.

To whom the warrant should be addressed.

(3) Where the property is in the area under the control of the municipal council, the warrant shall be addressed to an officer of the municipal council. Where the property is in another municipality constituted under

this Act or the Mysore Town Municipalities Act, 1933,[1] or under the Mysore Minor Municipalities Act, 1933,[1] or in a place which is not a municipality constituted under the aforesaid Acts, the warrant shall be addressed to the president of the municipal council concerned or to the Amildar of the Taluk as the case may be ; provided that such president or Amildar may endorse such warrant to a subordinate officer.

Power of entry under special order.

(4) It shall be lawful, for any officer to whom a warrant issued under sub-section (2) is addressed or endorsed, if the warrant contains a special order authorising him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance :

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

Warrant how to be executed.

(5) It shall also be lawful for any such officer, if authorised by the warrant, to distrain, wherever it may be found any movable property of the person named in the warrant issued under sub-section (1) as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) The following property shall not be distrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artizans,

(iii) when the defaulter is an agriculturist, his implements of husbandry, seed, grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood.

(*b*) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible

1. Repealed and re-enacted as the Mysore Town Municipalities Act, 1951.

proportionate in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person authorised by or under sub-section (2) to sign a warrant or of the person to whom the warrant was addressed, should not have been so distrained, they shall forthwith be returned.

(*c*) The officer shall on distraining the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of distraint, a written notice in the form of Schedule XII.

Sale of goods distrained in special cases.

97. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was when distrained, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained; application of proceeds of sale.

(2) If not sold at once under sub-section (1), the property distrained or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the municipal council, and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental costs as aforesaid.

Surplus, if any, how dealt with.

(3) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint, but if the same be claimed by written application to the municipal council within one year from the date of the notice given under this sub-section, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the municipal council.

(*Chapter VIII—Recovery of Municipal Claims*)

Distraint and sale outside the municipality.

98. Where the warrant is addressed outside the municipality, the authority issuing the warrant may by endorsement direct the officer to whom the warrant is addressed to sell the property distrained and in such case it shall be lawful for such officer to sell the property and to do all things incidental to the sale and the foregoing provisions shall apply *mutatis mutandis*. Such officer shall after deducting all costs of recovery incurred by him remit the amount recovered under the warrant to the authority by whom it was issued, who shall dispose of the same in accordance with the provisions of section 97.

Summary proceedings may be taken against persons about to leave the municipality.

99. (1) If the municipal council shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this chapter is due or is about to become due, is about to remove from the municipal area, the municipal council may cause a bill for the sum due or about to become due to be presented to such person and demand immediate payment thereof.

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the movable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the municipal council's warrant for distress and sale may be issued and executed without any delay.

100. Fees for—

Fees and costs chargeable.

(*a*) every notice issued under sub-section (3) of section 95,

(*b*) every distress made under sub-section (5) of section 96, and

(*c*) the costs of maintaining any live-stock seized under the said sub-section,

shall be chargeable at the rates respectively specified in such behalf in the rules of the municipal council, and shall be included in the costs of recovery to be levied under section 97.

Appeal to magistrates.

101. (1) Appeals against any notice of demand issued under sub-section (3) of section 95, may be made to any magistrate or bench of magistrates by whom, under the directions of the Government or of the District Magistrate, such class of cases is to be tried.

But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within one month next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim is disputed, has been made as follows, that is to say:

(i) in the case of a rate on buildings or lands, to the assessor or the municipal council as the case may be, within the time fixed in the notice given under section 72 or 73 of the assessment or alteration thereof, according to which the bill is prepared;

(ii) in the case of any other claim for which a bill has been presented under sub-section (1) of section 95 to the municipal council within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

Revision of decisions on appeal.

(2) The decision of the magistrate or bench of magistrates upon any appeal, shall at the instance of either party, be subject to revision by the court to which appeals from his or their decisions ordinarily lie.

(3) Effect shall be given by the municipal council to every decision of the said magistrate or bench of magistrates on any appeal or any decision in revision on such appeal.

Liability of land, buildings, etc., for rates.

102. All sums due on account of any tax imposed in the form of a rate on lands or buildings, or on both, mentioned in section 76, shall, subject to prior payment of land revenue, if any, due to the Government thereupon, be a first charge upon the building or land, in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax or taxes:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

(Chapter IX—Municipal Powers and Offences)

Receipts to be given for all payments.

103. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid shall be tendered by the person receiving the same.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(1) *Powers in respect of streets.*

Power regarding streets, etc.

104. (1) It shall be lawful for the municipal council to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same, and to widen, open, enlarge, or otherwise improve any such streets, and to turn, divert, discontinue, or stop up any such streets, and, subject to the provisions of sub-section (2) of section 41, to lease or sell any such land theretofore used or acquired by the municipal council for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act.

(2) In laying out or making, or in turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addtion to the land required for the carriage-way and foot-ways and drains thereof, the municipal council may purchase the land necessary for the houses and buildings to form the said street, and, subject to the provision contained in sub-section (2) of section 41, may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit.

Power to require repair of streets;

105. (1) When the municipal council considers that in any street, not being a public street, or in any part of such street, within the municipality, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the municipal council may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in any manner and within a time to be specified in such notice.

and to declare such streets public.

(2) After such work has been carried out by such owners or, as provided in section 187 by the municipal council at the expense of such owners, the street or part thereof in which such work has been done shall on the joint requisition of a majority of the said owners, be declared by a public notice, put up therein by the municipal council, to be a public street.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the municipal council as provided in section 187, the expenses thereby incurred shall be apportioned by the municipal council, between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

Power to declare any street a public street subject to objections by the owners.

(4) A municipal council may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipal council give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street, lodges or lodge objections thereto at the municipal office, the municipal council may, by notice in writing put up in such street, or such parts, declare the same to be a public street.

Temporary closure of streets.

106. The municipal council may, by an order in writing, temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water supply or lighting or any of the purposes of this Act.

Provided that such work shall be completed and such street re-opened to traffic with all reasonable speed.

New streets.

107. (1) Every person intending to lay out or make any new street, shall give notice in writing thereof to the municipal council, and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, if required by the municipal council to do so and the level, means of drainage, direction and width of every such street shall be fixed or approved by the municipal council.

(2) Before passing orders under sub-section (1), the municipal council may either issue—

Power of municipal council to pass orders.

(*a*) a provisional order directing that, for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) a demand for further particulars.

(3) If —

Right to proceed in certain cases.

(*a*) within one month from the receipt of the notice given under sub-section (1), the municipal council has neither—

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (1) with regard to level, means of drainage, direction and width of the street, nor

(ii) under sub-section (2), issued any provisional order or demand for further particlars, or if

(*b*) the municipal council, having issued such demand for, and having received, in accordance with the demand and with the by-laws in force in this behalf, such further particulars, has issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice, and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty.

(4) Whoever lays out, makes or builds upon any such street, either without giving the notice required by sub-section (1), or, except in accordance with the provisons of sub-secion (3), without awaiting, or otherwise than in accordance with, the instructions issued by the municipal council, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred rupees, and the municipal council may cause any street so laid out or made to be altered, and any building erected in such street contrary to its directions to be altered, or removed, and the expense thereby incurred shall be paid

to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

The regular line of public street.

108. (1) It shall be lawful for such municipal council as may be notified by the Government in this behalf, to prescribe a line on either side or both sides of any public street within the municipality and the municipal council may from time to time prescribe a fresh line in substitution of any line so prescribed, or for any part thereof.

Provided that—

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the municipal council shall notify the same in the Official Gazette and shall give public notice of it and it shall also put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed and shall further give notice to the owners or occupiers of the lands affected by such alignment;

(*b*) the municipal council shall consider any written objection or suggestion in regard to such proposal delivered at the office of the municipal council within such time as it may specify in such public or special notice; and

(*c*) the municipal council shall prepare a map of the area comprised within the said line and the street concerned and a statement specifying the lands enclosed therein which shall be open for the inspection of the public.

(2) The line for the time being so prescribed shall be called 'the regular line of the public street.'

(3) (*a*) Except under the provisions of section 135, no person shall construct or reconstruct any portion of any building, within the regular line of the public street without the permission of the municipal council under section 115.

(*b*) Where the muncipal council refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall thenceforth be vested in the municipal council and deemed part of the public street.

(*c*) Compensation, the amount of which shall, in case of dispute be ascertained and determined in the manner provided in section 191 shall be paid by the municipal council to the owner of any land vesting in the municipal council under clause (*b*) of sub-section (3) for the value of the said land and also for any loss, damage, or expense incurred by him in consequence of any action taken or order passed by the municipal council under the said clause (*b*).

(4) Whoever contravenes the provisions of sub-section (3) shall be punished with fine which may extend to two hundred rupees ; and the municipal council may—

(*a*) direct that the building be stopped, and

(*b*) by a written notice, require such building or portion thereof to be altered or demolished as it may deem necessary.

(2) *Powers to regulate buildings, etc.*

Setting back projecting buildings.

109. (1) If any part of a building projects beyond the regular line of a public street as prescribed under section 108, or beyond the front of the building on either side thereof, the municipal council may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then, whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down, ...

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed, or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipal council.

Acquisition of land which is within the regular line of a street and upon or occupied only by platforms, etc.

(2) If any land, not vested in the municipal council, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other such external structure, the municipal council, after giving the owner of the land not less than fifteen clear days' written notice of its intention, or if the land is vested in the Government then with the permission in writing of the Deputy Commissioner, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipal council.

Compensation payable by the municipal council.

(3) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 191, shall be paid by the municipal council to the owner of any land added to a street under sub-section (1) or acquired under sub-section (2), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the municipal council under either of the said sub-sections, provided that no such compensation shall be payable in cases to which section 141 applies.

(4) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (1) has been taken down under the provisions of section 141, the municipal council may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Setting forward to regular line of street.

110. The municipal council may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

Buildings at corner of streets.

111. (1) The municipal council may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent or otherwise as it may determine, and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity.

(2) For any land so acquired, the municipal council shall pay compensation.

(3) In determining such compensation, allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

Roofs and external walls of buildings not to be made of inflammable materials.

112. (1) The external roofs and walls of buildings erected or renewed after the coming into force of this Act shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials, except with the written consent of the municipal council, which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(2) The municipal council may at any time, by written notice, require the owner of any building which has an external roof or wall made of any such materials as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the municipal council.

Penalty.

(3) Whoever without such consent as is required by sub-section (1) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (2) suffers to remain, any roof or wall of such materials as aforesaid, shall be punished with a fine which may extend to twenty-five rupees, and with a further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

113. No building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipal council, or into some stream or river, or some cesspool, or other suitable place which may be approved of by the municipal council.

Rat-proof building for warehouse for storing grain.

114. The municipal council may require that any building, used or intended to be used as a warehouse for the storage of grain, shall be protected or erected so as to render such building rat-proof and may for this purpose prescribe the plan and the design to be adopted and the materials to be used for such building.

Notice of new buildings.

115. (1) Before beginning to construct any building, or to alter externally or add to any existing building,

or to construct or reconstruct any projecting portion of a building in respect of which the municipal council is empowered by section 109 to enforce a removal or set-back, or to construct or reconstruct which the municipal council is empowered by section 108 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the municipal council notice thereof in writing, and shall furnish to it at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the municipal council, and all information required by the by-laws or demanded by the municipal council regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

Power of municipal council to pass orders.

(2) Save as otherwise provided in this Act or the rules and by-laws thereunder, the municipal council may,

(*a*) either give permission to construct, alter, add or reconstruct according to the plan and information furnished, or

(*b*) impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, design, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any existing building or street, existing or projected, or the purpose for which the building is to be used, or

(*c*) direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

Provided that the direction in sub-clause (*c*)—

(*i*) shall apply only to buildings on sites not laid out by the municipal council or other competent authority; and

(*ii*) shall not be in force after six months from the date on which the direction is given.

Or to suspend the work or to require further particulars.

(3) Before issuing any orders under sub-section (2), the municipal council may, within one month from the receipt of such notice, either issue,

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(4) A building proposed in a notice given under sub-section (1) may be proceeded with in such manner, as may have been specified in such notice, as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, that is to say:—

(*a*) in case the municipal council, within one month from the receipt of the notice given under sub-section (1), has neither—

(i) passed orders under sub-section (2) and served notice thereof in respect of the intended work; nor

(ii) issued under sub-section (3) any provisional order or any demand for further particulars;

(*b*) in case the municipal council having issued such demand for, and having received in accordance with the by-laws in force in this behalf, such further particulars, has issued no further orders within one month from the receipt of such particulars.

(5) No person who becomes entitled under sub-section (2) or sub-section (4) to proceed with any intended work of which notice is required by sub-section (1), shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (1) to (4).

(6) [1][If any person] begins or makes any building or alteration or addition without giving the notice required by sub-section (1), or without furnishing the plan or

1. Substituted by Act XVI of 1950.

affording the information above prescribed, or except as provided in sub-section (4), without awaiting, or in any manner contrary to such legal orders of the municipal council as may be issued under this section or contrary to the provisions of sub-sections (4) or (5) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder,

[1][(i) the municipal council may, whether any action is taken or not against such person under clause (ii) of this sub-section,

(*a*) direct that the building, alteration or addition be stopped, and

(*b*) by written notice, require such building, alteration or addition to be altered or demolished, as it may deem necessary ;

(ii) such person shall be punishable with fine which may extend to two hundred rupees.]

(7) The municipal council or any officer deputed by it may at any time inspect the erection of any building without giving notice of its or his intention to do so, and at any time during the erection of a building or the execution of any such work as aforesaid, may by written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work, or, if the person who has erected or executed such building or work is not at the time of notice the owner thereof, then the owner of such building or work to cause anything done contrary to any such provision or by-law to be amended, or to do anything which by any such provision or by-law he may be required to do but which has been omitted.

EXPLANATION.—The expression " to erect a building " throughout this chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building,

1. Substituted by Act XVI of 1950.

(*b*) the conversion into a place as human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangments of a building as affect its drainage, ventilation or other sanitary arrangements or its security or stability, and

(*f*) the addition of any rooms, buildings or other structures to any building.

And a building so altered, enlarged, re-constructed, converted or added to, shall, for the purpose of this chapter, be deemed to be new building.

Power of Government to prohibit the erection of buildings in certain area without permission.

116. (1) Notwithstanding anything contained in section 109, the Government may in the public interest and after consulting the municipal council prohibit by notification published in the Official Gazette, the erection of any building within a specified area in a municipality except with permission granted by the Government in this behalf :

Provided that such permission shall not be refused in the case of land which has been set apart as a building site by the Government or the municipal council prior to the publication of such notification.

(2) The grant of any permission under sub-section (1) may be subject to such conditions as may be fixed by it in each case or prescribed generally.

(3) Whoever erects any building contrary to the provisions of sub-section (1) or the conditions imposed under sub-section (2) shall on conviction before a magistrate be punished with fine which may extend to two hundred rupees.

(4) The Government may demolish any building erected contrary to the provisions of sub-section (1) or the conditions imposed under sub-section (2).

Regulation of huts.

117. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the municipal council and the municipal council may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the municipal council may think proper for ventilation and to facilitate scavenging, and at such a level as will admit to sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to it may seem necessary. If any hut or shed or range or block be built without giving such notice to the municipal council, or otherwise than as required by the municipal council, the municipal council may give written notice to the owner or builder thereof or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the municipal council may think fit.

Improvement of huts.

118. (1) Whenever the municipal council is of opinion that any huts or sheds whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason,—

(*a*) of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on

which such hut or shed is built, within such reasonable time as may be fixed by the municipal council for that purpose, to take down and remove such hut or shed, or to execute such operations as the municipal council may deem necessary for the avoidance of such risk.

(2) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the municipal council may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as it may deem necessary to prevent such risk.

(3) If such huts or sheds be pulled down by the municipal council, the municipal council shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner be unknown or the title disputed, shall be held in deposit by the municipal council until the person interested therein shall obtain the order of a competent court for the payment of the same:

Provided always that in case any huts or sheds, existing at the time when the land on which they are situate first became part of a municipality, should be pulled down under this section by order of the municipal council or in pursuance of its notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 191.

(3) *Powers connected with drainage, water works, etc.*

Municipal control over drains, etc.

119. (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipality shall be under the survey and control of the municipal council.

(2) All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the municipal council or other person to whom they severally belong, with proper traps, or other coverings or means of ventilation, and the municipal council may by written notice call upon the owner of any such covered sewers, drains, or cesspools to make provision accordingly.

Powers for making drains.

120. (1) In order to carry out any drainage scheme, it shall be lawful for a municipal council to carry any drain, sewer, conduit, tunnel, culvert, pipe or water course through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipality.

(2) The municipal council, or any officer appointed by it for such purpose, may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the municipal council has been already constructed, or may repair or alter any drain vested in the municipal council.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 191, shall be paid by the municipal council to any person who sustains damage by the exercise of such power.

Sufficient drainage of houses.

121. (1) If any building or land be at any time undrained, or not drained to the satisfaction of the municipal council, the municipal council may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as it thinks necessary for the drainage of such building or land into—

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner.

New buildings not to be erected without drains.

(2) It shall not be lawful newly to erect any building, or to rebuild any building, or to occupy any building newly erected or rebuilt, unless and until—

(*a*) a drain be constructed, of such size, materials and description, at such level, and with such fall, as shall appear to the municipal council to be necessary for the effectual drainage of such building;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto all such appliances and fittings as may appear to the municipal council to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(3) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage situated at distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the municipal council directs.

Power of owners and occupiers of buildings or lands to drain into municipal drains.

122. The owner or occupier of any building or land within the municipality shall be entitled to cause his drains to empty into sewers of the municipal council, provided that he first obtains the written permission of the municipal council, and that he complies with such conditions as the municipal council prescribes as to the mode in which the superintendence under which the communications are to be made between drains not vested in the municipal council and drains which are so vested.

Sewage and rain-water drains to be distinct.

123. Whenever it is provided in this Act that steps shall or may be taken for the effectual drainage of any premises, the municipal council may require that there shall be one drain for offensive matter and sewage, and another drain for rain-water and unpolluted sub-soil water, each emptying into separate municipal drains or other places set apart by the municipal council for the discharge of drainage or into other suitable places.

Right to carry drain through land or into drain belonging to other persons how and on what conditions to be authorised by municipal council.

124. (1) If the owner or occupier of any building or land proves to the satisfaction of the municipal council that he cannot connect the same with any municipal drain otherwise than by means of a drain to be constructed through land, or to be connected with a drain belonging to or occupied by or in the use of some other person, the municipal council, after giving to such other person a reasonable opportunity of stating any objection to such application may, if no objection is raised or if any objection which is raised is in its opinion insufficient, by an

order in writing authorise the owner or occupier first mentioned to carry his drain into, through or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains, as may appear to it to be adequate and equitable.

Written order of municipal council authority for execution of necessary work.

(2) Every such order shall be a complete authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset, and, subject to all the provisions of this Act, to do all such work as may be necessary—

(*a*) for the construction or connection of the drain as may be authorised by the said order, or

(*b*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

Work how to be carried out.

125. In executing any work under section 124, as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall,—

(*a*) cause the work to be executed with the least practicable delay ;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

Rights of owner of land through which drain is carried, in regard to subsequent building thereon.

126. If the owner of any land into, through or under which a drain has been carried under section 124, whilst such land was unbuilt upon, shall at any subsequent time desire to erect a building thereon, the municipal council may, if it sanctions the erection of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as it may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building; and may also, by written notice require the person desiring to erect the building to make such alterations in the location of the building with reference to the drain, or in the details of the construction of the building, and on such terms, as the municipal council may deem to be necessary for the maintenance of the drainage connection.

Provision of privies, etc.

127. (1) In case the municipal council shall be of opinion that any privy, or cesspool, or additional privies, or cesspools, should be provided in or on any building or land, or, in any municipality in which a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be provided therein or thereon, the municipal council may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets as the municipal council may deem proper.

(2) The municipal council may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the municipal council may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The municipal council may by written notice require the owner or occupier of any land upon which there is a privy, to have such privy shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as it may direct any privy door or trap door which opens on to any street, and which it deems to be a nuisance.

Cost of altering, repairing and keeping in proper order privies, etc.

128. (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipality shall, unless constructed at the cost of the municipal council, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the municipal council may by written notice require such owner to alter, repair and put the same in good order in such manner as it thinks fit.

(2) The municipal council may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the municipal council, is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

129. When any building or land within the municipality has a drain communicating with any cesspool or sewer, the municipal council, if it considers that such drain, though it may be sufficient for the drainage of such building or land, and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the municipality, may close such drain, and such cesspool or sewer, whether it is or is not on land vested in the municipal council, on providing a drain or drains equally effectual for the drainage of such building or land, and the municipal council may do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorisedly constructed, re-built or unstopped.

130. The municipal council may by written notice require that any sewer, drain, privy, water-closet, house-gully or cesspool on any land within municipal limits, constructed, or re-built or unstopped—

(*a*) after such land became part of a municipality, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws of the municipal council, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, re-built

or unstopped, and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, house-gully or cesspool, whether he does or does not receive such notice, or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachment on municipal drains, etc.

131. (1) Whoever, without the written consent of the municipal council first obtained, makes or causes to be made any drain into or out from any of the sewers of drains vested in the municipal council, shall be punished with fine which may extend to twenty-five rupees, and the municipal council may by written notice require such person to demolish, alter, re-make or otherwise deal with such drain as it may think fit.

(2) No building shall be newly erected or re-built over any sewer, drain, culvert or gutter vested in the municipal council without the written consent of the municipal council, and the municipal council may by written notice require the person who may have erected or re-built such building to pull down or otherwise deal with the same as it may think fit.

Inspection of drains, etc.

132. (1) The municipal council or any officer appointed by it for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, water-closet, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or it may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the municipal council.

(2) The expense of such inspection, and of causing the ground to be closed and made good as before, shall be borne by the municipal council unless the sewer, drain, privy, water-closet, housegully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment, or of any by-laws of the municipal council in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-closet, housegully or cesspool, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Municipal council may execute certain works under this sub-chapter without allowing option to persons concerned of executing the same.

133. (1) The municipal council may, if it thinks fit, cause any work of the nature to which this sub-chapter applies, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Expenses in such cases by whom to be paid.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the municipal council shall, by a general or special order or resolution, sanction, as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(3) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the municipal council, be deemed to be municipal property, unless the municipal council shall have transferred its interest therein to the owner of such buildings or lands.

Power of carrying water mains, etc.

134. The water supply department of the Government or the municipal council, as the case may be, in whom the duty of construction and maintenance of water works for supply of water to the municipality vests, shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water mains, pipes and ducts within or without the municipality as the municipal council has and is subject to, under the provisions hereinbefore contained for carrying, renewing and repairing drains within the municipality.

(4) *Powers regarding external structures, etc.*

Permission necessary for certain projections.

135. (1) The municipal council may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies, or rooms, to project from any upper storey thereof, at such height from the surface of the street as the municipal council may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall, and may prescribe the extent to

which, and the conditions under which roofs, eaves, weather-boards, shop-boards and the like may be allowed to project over such streets.

(2) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to twenty-five rupees, and if any such owner or occupier fails to remove any such projection as aforesaid in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

Removal of projections.

(3) The municipal council may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether erected before or after the site of such building became part of a municipality, shall have been erected or placed against or in front of such building, and which

(*a*) overhangs or juts into or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or which

(*b*) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof :

Provided always that the municipal council shall, if such projection, encroachment or obstruction shall have been made in any place before the date on which such place became part of a municipality, or after such date with the written permission of the municipal council, make reasonable compensation to every person who suffers damage by such removal or alteration ; and if any dispute shall arise touching the amount of such compensation the same shall be ascertained and determined in the manner provided in section 191.

Troughs and pipes for rain water.

136. The municipal council may, by written notice, require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same,

in such manner as it may think fit, so that it shall not fall upon the persons passing along the street or cause damage to the street.

Fixing of brackets, etc., to houses.

137. The municipal council may erect or fix to the outside of any building, brackets for lamps to be lighted with oil or gas, or subject to the provisions of any law in force relating to electricity, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the law in force relating to telegraphs, for telegraph wires or telephonic wires, or for the conduct of electricity for locomotive or other purposes, or such pipes as it may deem necessary for the proper ventilation of sewers and water works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any others in the neighbourhood.

Naming streets and numbering houses.

138. The municipal council may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner, or entrance to every street, the name by which such street is to be known and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(2) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipal council, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing buildings, etc.

139. Any person—

(*a*) who, without the consent of the owner or occupier and in the case of municipal property without the permission in writing of the municipal council, affixes any posting, bill, placard, or other paper or means of advertisement against or upon any building, wall, board, fence or pale, post, lamp-post or the like, or

(*b*) who, without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pale, post, lamp-post or the like with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

(*Chapter IX—Municipal Powers and Offences*)

Removal and trimming of hedges, trees, etc.

140. The municipal council may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop or trim all trees or shrubs which in any way overhang, endanger, or obstruct or which it deems likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water-supply as to pollute or be likely to pollute the water thereof.

(5) *Powers for promotion of public health, safety and convenience.*

Ruinous or dangerous buildings.

141. (1) If any building, or anything affixed thereon, be deemed by the municipal council to be in a ruinous state or likely to fall, or in any other way dangerous to any inhabitant of such building, or of any neighbouring building, or to any occupier thereof, or to passengers, the municipal council shall immediately, if it appears to it to be necessary, cause a proper hoarding or fence to be put up for the protection of passengers ; all expenses incurred by the municipal council under this sub-section shall be paid by the owner or occupier of such building, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Action to be taken on default by owner or occupier.

(2) The municipal council shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building or thing affixed thereon, as the case shall require, and if such owner or occupier does not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the municipal council shall cause all or so much of such building or thing, as it shall think necessary, to be taken down, repaired or otherwise secured.

Proviso if danger is not imminent.

Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the municipal council, instead of itself causing a hoarding or fence to be put up, to issue in the first instance a notice in writing to the owner or occupier to put up a proper hoarding or

fence, and in the event of the owner or occupier failing to put up, within two days from the service of such notice, a hoarding or fence which the municipal council considers sufficient in the circumstances of the case, the municipal council shall at once cause such hoarding or fence to be put up and thereafter proceed as provided in sub-sections (1) and (2).

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

142. (1) The municipal council may at any time by written notice require that the owner of, or any person who has the control over, any well, stream, channel, tank or other source of water supply shall, whether it is private property or not,

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair ; or

(*b*) within a reasonable time to be specified in the notice, cleanse any such source of water supply from silt, refuse and decaying vegetation ; or

(*c*) in such manner as the municipal council prescribes, protect any such source of water supply from pollution by surface drainage ; or

(*d*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the municipal council approves, any such source of water-supply, other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water supply is, in the opinion of the municipal council, dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or shall

(*e*) desist from using and from permitting others to use, for drinking purposes any such source of water-supply which not being a stream in its natural flow, is proved to the satisfaction of the municipal council to be unfit for drinking ; or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot, in the opinion of the municipal council, be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the municipal council considers sufficient to prevent such use, such source of water-supply as aforesaid ; or

(*g*) drain off or otherwise remove from any such source of water-supply, or from any land or permises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the municipal council considers is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(2) If the owner or person having control as aforesaid fails or neglects to comply with any such requisition within the time required by or under the provisions of sub-section (1), the municipal council may, and if in its opinion immediate action is necessary to protect the health or safety of any person shall, at once proceed to execute the work required by such notice, and all the expenses incurred therein by the municipal council shall be paid by the owner of, or person having control over, such water supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provided that in the case of any well or private stream or of any private channel, tank or other source of water supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the municipal council or necessarily incurred by such owner or person having such control may, if the municipal council so directs, be paid from the municipal fund.

Displacing pavements, etc.

143. (1) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags, or other materials, of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the municipal council or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(2) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in the fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property of any public street, fails to replace or restore the same to the satisfaction of the municipal council after notice to do so, shall be punished

with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in restoring the street, and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Obstructions and encroachments upon public streets and open space.

144. (1) Whoever in any place after it has become a municipality shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step, or any projecting structure or thing, or other encroachment or obstruction except steps over drains in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer, or aqueduct in such street, shall be punished with fine which may extend to twenty-five rupees.

(2) The municipal council shall have power to remove any such obstruction or encroachment and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipal council or not, provided that if the space be vested in the Government, the permission of the Deputy Commissioner shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

(3) Whoever, not being duly authorised in that behalf, removes earth, sand, or other material from, or makes any encroachment in or upon, any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and in the case of an encroachment, with further fine which may extend to ten rupees for everyday on which the encroachment continues after the date of first conviction for such offence.

(4) Nothing contained in this section shall prevent the municipal council from allowing any temporary

occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner, as not to inconvenience the public or any individual.

(5) Nothing contained in this section shall apply to any projection duly authorised under sub-section (1) of section 135 or in any case where permission has been given under sub-section (4) of this section.

Hoardings to be set up during repairs, etc.

145. (1) Every person intending to build or take down any building, or to alter or repair the outward part of any building, in such a position or in such circumstances as that the work is likely to cause or may cause obstruction, danger, or inconvenience in any street shall, before beginning such work,

(*a*) first obtain a license in writing from the municipal council so to do ; and

(*b*) cause sufficient hoardings or fences to be put up in order to separate the building where such works are being carried on from the street, and shall maintain such hoardings or fence standing and in good condition to the satisfaction of the municipal council during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the municipal council.

(2) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Provision of facilities when work is executed in public street.

146. (1) When any work is being executed by the municipal council in any public street it shall, so far as may reasonably be practicable, make adequate provision for—

(*a*) the passage or diversion of traffic ;

(*b*) proper access to all premises approached from such street ; and

(*c*) any drainage, water-supply, or means of lighting which are interrupted by reason of the execution of such work.

Fencing and lighting during repairs, etc.

(2) The municipal council shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in it, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts to be fixed across or in any of the streets, to prevent the passage of carriages, carts, or other vehicles or of cattle or horses, while such works are carried on, as to it shall seem proper; and the municipal council shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be lighted with a sufficient light and guarded during the night.

(3) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the municipal council, shall be punished with fine which may extend to fifty rupees.

Timber not to be deposited or hole made in a street without permission.

147. (1) No person shall, without the written permission of the municipal council or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street, or erect or deposit thereon any timber, stone, brick, earth or other material that has been, or is intended to be, used for building; and such permission shall be terminable at the discretion of the municipal council; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, to the satisfaction of the municipal council, and shall cause the same to be sufficiently lighted during the night.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Dangerous quarrying.

148. If in the opinion of the municipal council the working of any quarry, or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof, or creates or is likely to create a nuisance, the municipal council may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material or to take such order with such quarry or place as the municipal council shall direct for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

Provided that if such quarry or place is vested in the Government, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of the Government or any person acting with the permission or under the authority of the Government or of any officer of the Government acting as such, the municipal council shall not take such action unless and until the Deputy Commissioner has consented to its so doing.

Provided further that the municipal council shall immediately cause a proper hoarding or fence to be put up for the protection of passengers near such quarry or place, if in any case referred to in this section it appears to it to be necessary in order to prevent imminent danger, and any expense incurred by the municipal council in taking action under this section shall be paid by such owner or other person as aforesaid, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provision as to dogs.

149. (1) The municipal council may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(2) Subject to the provisions of sub-section (3), the municipal council may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has

provided a proper muzzle for it and has paid all the expenses of its detention, or cause it to be destroyed.

(3) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for three clear days; provided that any dog, which is found to be rabid may be destroyed at any time.

(4) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention, may be sold or destroyed, after having been detained for the said period of three clear days.

(5) All expenses incurred by the municipal council under this section may be recovered from the owner of any dog which has been taken possession of or detained, in the manner provided by chapter VIII.

(6) *Powers for the prevention of nuisance.*

Depositing dust, etc.

150. (1) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse or filth of any kind, or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on the bank of any river, water-course or nullah, except at such places, in such manner, and at such hours as shall be fixed by the municipal council, and whoever commits or suffers any member of his family to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees.

(2) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matter above described, or, except with the permission of the municipal council, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert, tunnel or water-course, or in such close proximity thereto

as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Discharging sewage, etc.

151. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the municipal council, or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Non-removal of filth, etc.

152. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction.

Removal of night-soil.

153. (1) The municipal council may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(2) Whoever,

(a) when the municipal council has fixed such hours, and given public notice thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the municipal council or not,

(i) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof and of the stench therefrom, or

(ii) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(iii) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(iv) places or sets down in any public place any vessel containing such offensive matter, or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid through any street or by any route, other than such as shall from time to time be appointed for that purpose by the municipal council by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

154. (1) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the municipal council a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the municipal council to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued, after the date of the first conviction.

(2) Should the state of the building be such as in the judgment of the municipal council to render it unfit for human habitation, it may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

Deserted and offensive buildings.

(3) If any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby

(*a*) becoming a resort of idle and disorderly persons or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the municipal council, if it considers such objection cannot under any other provision of this Act, be otherwise removed may, if there is any person known or resident within the municipality who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed ; and in the event of non-compliance with such requirement, the municipal council, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing ; and all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under chapter VIII.

Buildings or rooms in buildings unfit for human habitation.

155. If, for any reason, it shall appear to the municipal council that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the municipal council shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, unless such improvements as are specified in the notice are executed within a reasonable time and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the municipal council invalid or insufficient, the municipal council may by an order in writing prohibit the further use of such building or room as a dwelling and may withdraw such prohibition for proper reasons.

Power to enter and inspect, etc., buildings.

156. It shall be lawful for the president, vice-president, or any councillor or officer authorised by the municipal council in this behalf, at any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part thereof to be forthwith internally and externally limewashed or otherwise cleansed for sanitary reasons.

Provision of bathing facilities.

157. (1) The municipal council may set apart sufficient public places for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use for any purpose mentioned in this section, of any or all other public places within the municipality.

(2) Copies of all orders passed and notices issued by the municipal council and for the time being in force under this section, shall be kept at the municipal office

and shall be open for inspection by the public at all reasonable times.

Fouling water.

158. (*a*) Whoever, in disobedience of any order of the municipal council under section 157 or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit and aqueduct belonging to the municipal council, or washes, or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought thereinto anything that is, or may become, a nuisance or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and

(*b*) whoever, without permission of the municipal council, steeps in any tank, stream, or ditch within or on the boundary of the municipality, any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance, shall be punished with fine which may extend to fifty rupees.

Abatement of nuisances from wells, etc.

159. (1) If in the opinion of the municipal council—

(*a*) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water, or

(*b*) any cistern or other receptacle for water whether within or outside a building, or

(*c*) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house,

is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the municipal council may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the municipal council shall prescribe, or to take such order with the same for removing or abating the nuisance as the municipal council shall prescribe.

(2) (*a*) No new tank or pond shall be dug or constructed without the previous permission in writing of the municipal council.

(b) If any such work is begun or completed without such permission, the municipal council may either—

(i) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the municipal council shall prescribe ; or

(ii) grant written permission to retain such work : but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (*a*) of this sub-section.

Regulation or prohibition of certain kinds of cultivation.

160. The municipal council on the report of the Director of Health, the health officer, or the local medical officer that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any place within the limits of the municipality is injurious to the public health may, with the previous sanction of the Government by public notice regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious :

Provided that when such cultivation or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested, for any damage caused to them by absolute prohibition.

Using offensive manure, etc.

161. Whoever, except with the written permission of the municipal council, and in the way, if any, enjoined in such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

162. (1) Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall be punished with fine which may extend to twenty-five rupees.

Keeping swine.

(2) Whoever keeps any swine so as to be a nuisance shall be punished with fine which may extend to ten rupees.

Feeding animals on filth.

163. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable refuse, filth, or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.

Licensing of goats and pigs.

164. Within such limits as the municipal council may direct, no person shall keep more than five pigs or more than ten goats without a licence from the municipal council. The municipal council may charge an annual fee not exceeding two rupees for such licence and may impose such conditions in respect of such licence as it may think necessary. Whoever keeps any pigs or goats contrary to the provisions of this sub-section shall be punishable with fine which may extend to twenty-five rupees.

Consumption of smoke.

165. (1) It shall be lawful for the municipal council to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the municipality, whether a steam engine be or be not used or employed therein, shall in all cases, be constructed, supplemented or altered so as to consume or burn, or reduce as far may be practicable, the smoke arising from such furnace.

(2) If any person shall, after such direction, use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings or, being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees, and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

Licenses to be taken for burning bricks.

166. (1) It shall be lawful for the municipal council to publish by a notification in the Official Gazette that no place within municipal limits shall be used for burning bricks without a license from the municipal council and except in accordance with the conditions specified therein :

Provided that no such notification shall take effect until sixty days from the date of publication.

(2) Any person who, after the publication of such notification, wishes to use such place for such purpose shall apply to the municipal council for license therefor.

(3) The municipal council may by an order and under such restrictions as it thinks fit, grant or refuse to grant such license.

(4) Every such license shall expire on such date as may be specified therein.

(7) *Regulation of Markets, Sale of Food, etc.*

Licensing markets, slaughter-houses and certain businesses.

167. (1) It shall be lawful for the municipal council to direct that no place not belonging to or vested in the municipal council shall be used for any of the purposes specified in sub-clauses (i), (ii), and (iv) to (vi) of clause (*b*) of sub-section (1) of section 51 except under and in accordance with the conditions of a license from the municipal council which may at its discretion from time to time grant, suspend, withhold or withdraw such licenses either generally or in individual cases.

(2) Whoever uses or permits the use of any place contrary to such direction, or without the license required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such license, shall be punished with fine which may extend to twenty-five rupees.

(3) Upon a conviction being obtained in respect of any place under sub-section (2) of this section, the magistrate shall, on the application of the municipal council

but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used ; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

Opening, closing, and letting of markets and slaughter-houses.

168. (1) The municipal council may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

(2) Any person who, without the permission or license of the municipal council, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

(3) It shall be lawful for the municipal council to lease for a period not exceeding one year at a time by public auction or private contract the collecting of any rent or fees which may be imposed under sub-section (1).

Slaughter-houses, etc., beyond municipal limits.

169. It shall be lawful for the municipal council, with the sanction of the Deputy Commissioner, to establish slaughter-houses, or places for the disposal of carcasses of animals, beyond the limits of the municipality, and all provisions of this Act and of by-laws in force thereunder relating to such places within municipal limits shall have full force therein, as if such places were within the municipal limits.

Registry for shops for sale of European drugs.

170. (1) No shop or place shall be kept for the retail sale of drugs recognised by the British Pharmacopœia, not being also articles of ordinary domestic consumption, unless the same is registered in the office of the municipal council within two months after the commencement of this Act or if the shop or place is established after the commencement of this Act then, within two

months from the date of its establishment. Any keeper of such shop or place failing to so register the same shall be liable to a fine not exceeding one hundred rupees. The municipal council, shall, upon payment of such fees as may be prescribed in this behalf, register such shop or place in a book kept for the purpose and grant the keeper of the shop or place a license which shall be displayed in some conspicuous part of the premises registered.

Certificated dispensers.

(2) No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be duly certified as a fit person to be entrusted with the duties prescribed in this behalf; and every such person shall be bound to produce his certificate for inspection when required to do so by a magistrate, a medical officer not below the rank of an assistant surgeon or the health officer of the municipality:

Provided that the provisions of this sub-section shall not come into operation in any municipality until after the expiration of a period of six months from the publication of a notification by the Government in the Official Gazette extending the same to such municipality.

(3) Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous systems of medicine whether recognised by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopœia are dispensed upon prescription.

Uncertificated person dispensing drugs.

171. (1) Whoever, within a municipality, not being the holder of such certificate as is mentioned in sub-section (2) of section 170 shall compound, mix, prepare or sell any drugs, shall, on conviction before a magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier or keeper of any such shop or place who shall employ any such uncertificated person to perform any one or more of such duties, shall, on conviction before a magistrate, be liable to a fine not exceeding two hundred rupees and shall be further liable at the discretion of such magistrate to forfeit his license.

(2) Whoever, being the holder of such a certificate as is mentioned in sub-section (2) of section 170 fails to produce the same for inspection when called upon to do so by any of the officers mentioned in the said sub-section shall, on conviction before a magistrate, be liable to a fine not exceeding ten rupees :

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect in the Official Gazette by the Government.

Unwholesome articles of food and drink.

172. (1) The president, vice-president or any councillor or officer authorised by the municipal council in this behalf—

(*a*) may at all reasonable times, enter into any place for the purpose of inspecting, and may inspect, any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in, or brought to, any place for the purpose of sale, or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine, may seize the same.

Any article which is of a perishable nature may, under the orders of the president, vice-president or chairman of the managing committee or of a committee appointed under section 31, to exercise all or any of the powers vested in the municipal council under this sub-chapter, or of the municipal commissioner, if any, if in his opinion it is diseased, unsound, unwholesome or unfit for food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a magistrate.

If it appears to the magistrate upon sufficient evidence that any such article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink or medicine.

Adulterated articles for food or drink.

(2) If any article intended for food or drink is in any place mentioned in sub-section (1), the president, vice-president, or officer authorised as aforesaid, in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a magistrate upon sufficient evidence that such article is not what it is represented to be, such magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink and the owner not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

Explanation.—If such article having been exposed or stored in or brought to any place mentioned in sub-section (1) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be for the purposes of this sub-section, an article which is not what it is represented to be:

Protection to persons acting in good faith.

Provided that when any article of food or drink referred to in this sub-section appears to the magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person

in whose possession the same is found, if such owner or person proves to the satisfaction of the magistrate—

(*a*) that such substance has been added to the article of food or drink, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or of drink or conceal the inferior quality thereof ; or

(*b*) that in the process of production, preparation or conveyance of such article of food or drink the extraneous substance has unavoidably come intermixed therewith ; or

(*c*) that, by a label distinctly and legibly written or printed on or with the said article of food or drink or by other means of public description, he has given sufficient notice that such substance has been so added ; or

(*d*) that—

(i) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(ii) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(iii) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

(3) It will be open to a municipal council, subject to the approval of the Government, to set apart any stall or specified locality for the sale of ghee and in such stall or specified locality, no ghee shall be sold or exposed for sale that is adulterated with any other substance.

Whoever sells or exposes for sale adulterated ghee in any stall or locality so set apart shall, on conviction before a magistrate be punished with fine which may extend to one hundred rupees and the magistrate may cause such

ghee to be destroyed or to be so disposed of as to prevent its being exposed for sale in such stall or locality.

Application for summons to be refused, if not applied for within reasonable time.

(4) In all prosecutions under this section the magistrate shall refuse to issue a summons for the attendance of any person accused of any offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

False weights and measures and instruments for weighing.

173. The president, vice-president, chief officer and health officer or any councillor or officer authorised by the municipal council in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food or drink or for medicine, and inspect the instruments for weighing and the weights and measures in use; and if the person in charge be found in possession of any false or defective weights or measures, or of weights or measures or of any instruments for weighing by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees.

(8) *Prevention of Dangerous Diseases.*

Power which may at any time be exercised.

174. (1) Every municipal council may, subject to such limitations, restrictions and conditions, if any, as may be prescribed in this behalf, exercise all or any of the powers specified in sub-section (2) for prevention of dangerous diseases.

(2) The powers, which may be exercised under the preceding sub-section are:—

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household, is suffering from any illness which may reasonably be

supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipal council in that behalf;

(*b*) power to direct or authorise the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable, of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place, which may appear to the municipal council, on the advice of the medical officer, likely to engender or cause the spread of any dangerous disease;

(*d*) power to direct or cause the removal, on a certificate signed by the health officer of the municipal council or any duly qualified medical practitioner authorised by the municipal council in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipal council;

(*e*) power to require by written notice the owner or occupier of any building, or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipal council in the circumstances of the case considers reasonable, at the expense of the municipal council;

(*f*) power to provide the means, and to prescribe places, for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof;

(*g*) power—

(i) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and

(ii) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and

(iii) to direct that any conveyances, that may at any time be used for conveying any such person shall be immediately disinfected;

(*h*) power to prohibit—

(i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmasala, theatre, market or other place of public resort, or

(ii) any person in-charge of any person so suffering from so exposing such sufferer;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows, or has reason to believe, has been exposed to infection of any kind whatsoever from any dangerous disease;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmasala, chattram or musafirkana in which a person has, or in which there is reason to believe that a person has, been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipal council or of such officer as the municipal council appoints in this behalf;

(*k*) power, with the previous permission in each case of a magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which

there is reason to believe that persons have been suffering from dangerous disease.

(3) The municipal council may, in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section, but except as allowed by the municipal council, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penalties for disobedience of an order passed in exercise of such powers.

(4) Any person who in a municipality disobeys any order which is for the time being in force therein, and which has been passed by the municipal council in exercise of any power conferred on such municipal council by this section, or obstructs any officer of the municipal council or other person acting under the authority of the municipal council in carrying out executively any such order, shall be punished with fine which may extend to two hundred rupees.

Duties of municipal council on threatened or actual outbreak of dangerous disease.

175. (1) In the event of the municipality or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipal council shall take all such measures as it deems necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak.

(2) In such event as aforesaid the Government may, by special notification, declaring that such municipality is threatened or visited with an outbreak of a dangerous disease, confer on the municipal council all or any of the powers specified in the following sub-section, and such municipal council shall, subject to such limitations, restrictions and conditions, if any, as the Government in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(3) The powers, all or any of which may be conferred under the preceding sub-section, are—

(*a*) power to order, subject to the conditions,

(i) that the permission of a magistrate exercising not less than second class powers shall be in each case first obtained, and

(ii) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling, or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein;

(*b*) power to direct the examination by a medical officer of persons and, if necessary the disinfection of the clothing, bedding or other suspicious articles belonging to persons, either arriving from places outside the municipality or residing in any infected building or building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such time and places as may be prescribed, for a period not exceeding ten days.

(*c*) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the civil surgeon, or other senior medical officer of the district or other medical officer appointed by the Government in this behalf, such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(4) The municipal council may, in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the municipal council, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penal clauses.

(5) If, in any municipality in which such declaration under sub-section (2), as aforesaid is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such municipality and which has been passed by the munici-

pal council in exercise of any power conferred on it by section 174 or under this section, or

(*b*) obstructs any officer of the municipal council or other person acting under the authority of the municipal council in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders.

176. (1) The Government may at any time—

(*a*) withdraw any power conferred by or under sections 174 and 175;

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of any such power; or

(*c*) cancel any order passed by a municipal council in exercise of any such power.

(2) Every order passed by a municipal council in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipality.

Duties of municipal council in respect of disease among horses, dogs, cattle, sheep or goats.

177. If in any municipality any infectious disease amongst horses, dogs, cattle, sheep or goats breaks out, or if the introduction of any such disease appears to be likely, the municipal council shall take all such measures as it deems necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

178. (1) Whenever the municipal council considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the municipal council may cause proceedings to be taken before a magistrate of the first class for the purpose of obtaining an order to prevent such overcrowding.

Procedure of magistrate.

(2) Such magistrate may, on the production of a certificate by a medical [1][or health] officer stating his

1. Added by Act XXI of 1939.

opinion that the overcrowding complained of is likely to cause disease or risk of disease, and after such further enquiry, if any, as may appear to such magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(3) If the said building shall have been sublet, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purpose of this sub-section, be deemed to be the owner of the building.

(4) It shall be incumbent on any owner to whom a requisition is issued under sub-section (2), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(5) Any owner who, after the date specified in any requisition issued under sub-section (2), permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (4), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

Special powers which may be conferred by Government in respect of overcrowded areas notified by Government.

179. (1) If the Government is of opinion that risk of disease has arisen or is likely to arise, either to any occupier in, or to any inhabitants in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings, or blocks of buildings, already existing or projected therein are, or are likely to become, crowded together, or

(*b*) the impracticability of cleansing any such buildings, or blocks of buildings already existing or projected, or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein, for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

the Government may by notification confer on the municipal council, to which such area is subject, all or any of the powers specified in sub-section (2) and the municipal council may, subject to the limitations, restrictions, modifications, conditions or regulations, if any, prescribed in this behalf, exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the Government.

(2) The powers, all or any of which may be conferred on a municipal council under sub-section (1), are as follows :—

(*a*) power, when any building or block, already existing or in course of erection, by reason of any defect specified in sub-section (1), has given or is in the opinion of the municipal council likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed as the municipal council deems fit either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block, or execute such works or take such action in connection therewith as the municipal council deems necessary to prevent all such risk of disease ;

(*b*) power by municipal or other agency, to pull down or remove the said building or block, or to execute such works or take such action, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(*c*) power, subject to a right of appeal to an officer who may be empowered by the Government in this behalf and whose decision shall be conclusive, to prohibit by written notice addressed to the owner and occupier of any such site or space and by general notice published in the manner provided in sub-section (3) of section 185, the erection of any building or of any building exceeding such dimensions as may be specified ;

(i) on the site of any building which has in whole or in part in exercise of the power specified in clause (*a*) been pulled down, or

(ii) on any space not occupied by buildings whether such space is private property or not, and whether it is enclosed or not,

if the municipal council considers that in order to prevent such risk as aforesaid such site or space should not be built upon and either,

(*a*) to acquire such site or space, or

(*b*) to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 191 shall be paid to any person whose rights are affected by such prohibition.

(3) When in pursuance of any notice under sub-section (2), any building has been pulled down, the municipal council shall, unless it has been erected contrary to any provision of this Act or of any by-law in

force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 191.

Closing places for disposal of the dead.

180. (1) If the municipal council be of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the Government, and the Government thereupon, after such further enquiry, if any, as it shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(2) A copy of the said notification together with a translation thereof in Kannada shall be published in the official Gazette, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(9) *Nuisances from certain trades and occupations.*

Regulation of certain trades.

181. (1) If it be shown to the satisfaction of the municipal council that any building or place used or intended by any person to be used—

(*a*) for boiling or storing offal, blood, bones or rags;

(*b*) for salting, curing and storing fish ;

(*c*) for storing hides, horns or skins ;

(*d*) for tanning ;

(*e*) for the manufacture of leather or leather goods ;

(*f*) for dyeing ;

(*g*) for melting tallow or sulphur ;

(*h*) for washing or drying wool or hair ;

(*i*) as a brick, pottery or lime kiln ;

(*j*) for soap-making ;

(*k*) for oil-boiling;

(*l*) as a manufactory of sago;

(*m*) as a distillery;

(*n*) for storing hay, straw, fodder, wood, coal or other combustible material;

(*o*) as a quarry;

(*p*) as a cart-stand;

(*q*) for storing grain for trade purposes;

(*r*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells, fumes or soot or dust arise, or which may involve risk of fire;

is or is likely by reason of such use and of its situation to become a nuisance to the neighbourhood, or is so used or is so situated as to be likely to be dangerous to life, health or property, the municipal council may by written notice require the owner or occupier—

(i) at once to discontinue the use of, or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such place, or

(ii) to use it in such manner, or after such structural alterations, as the municipal council in such notice prescribes, so that it may not become or may be no longer, a nuisance or dangerous.

Liability to penalty after notice.

(2) Whoever, after notice has been given under sub-section (1), uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health or property shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(3) Upon a conviction being obtained under this section the magistrate shall, on the application of the municipal council, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other

steps to prevent such place being used for any purpose mentioned in sub-section (1).

Penalty for unlicensed places in a municipality in which by-laws under section 51 (1) (*b*) (iii) are in force.

(4) Whoever uses without a license, or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (1) in any municipality in which by-laws are for the time being in force prescribing the conditions on and subject to which, the circumstances in which and the areas and localities in respect of which, licenses for such use may be granted, refused, suspended and withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Factories in crowded localities.

182. (1) In any municipality to which by a notification in the official Gazette this section is made to apply by the Government, no person shall establish in any premises, any factory as defined in the Mysore Factories Act, 1914, without the previous written permission of the municipal council.

(2) The municipal council may refuse to give such permission if it be of opinion that the establishment of such factory in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof, or will be a nuisance to the inhabitants of the neighbourhood or in any other manner contravenes the terms of any by-laws framed in this behalf.

(3) Whoever establishes in any premises, any factory as aforesaid without or after the refusal of such permission, or in contravention of the terms of any by-laws framed in this behalf, shall be punished with fine which may extend to two hundred rupees.

Use of siren or whistle for summoning or dismissing workmen.

183. (1) No person shall use or employ in any factory, or any other place, any whistle or trumpet operated by steam, mechanical means or electricity, for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the municipal council.

(2) The municipal council may grant such license subject to such conditions as it may deem fit and may at

any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such license, shall be punished with fine which may extend to fifty rupees.

Brothels.

184. In any municipality to which, on the application of the municipal council, the Government may by notification have declared this section to apply, any magistrate of the first class on receiving information that a house within the limits of such municipality is used as a brothel, may summon the owner or occupier of such house, and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it and if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipality residing in the vicinity of the house to which the complaint refers.

(10) *Service of notices and penalties on non-compliance therewith.*

Service of notices, etc., addressed to individuals.

185. (1) The service of every notice, and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed shall, in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorised by the municipal council in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode with, or by giving or tendering the notice or bill to, some adult male member or servant of his family ; or

(*c*) if such person does not reside within the municipal limits, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post, under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices, etc., on owners and occupiers of buildings and lands.

(2) When any notice or bill under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice or bill to the owner or occupier, or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice or bill to some male adult member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the notice or bill to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(3) Every notice which this Act requires or empowers a municipal council to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such

conspicuous part of the municipal office during such period, and in such other public buildings and places, or is published in such local paper or in such other manner, as the municipal council in by-laws in this behalf prescribes.

Defective form not to invalidate notice or bill.

(4) No notice or bill shall be invalid for defect of form.

Execution of act required to be done by any notice.

(5) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(6) In the event of non-compliance with the terms of the notice it shall be lawful for the municipal council to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipal council shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 192.

Punishment for disobedience to orders and notices not punishable under any other section.

186. Whoever disobeys or fails to comply, with any lawful direction given by any written notice issued by a municipal council under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by the municipal council under any power so conferred shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

Municipal council in default of owner or occupier may execute work and recover expense.

187. (1) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the municipal council, whether any penalty is or is not provided for such default, may cause such work to be executed ; and the expenses thereby

incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as the municipal council may deem fit.

Provided that—

Agreement for construction of drainage and water-connections.

(*a*) Whenever any drainage scheme or water works scheme has been commenced by any municipal council, it shall be lawful for the municipal council, without prejudice to its powers under sub-section (1) or section 121 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipal council shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement, or in default, in the manner described in sub-sections (2) and (3):

Provided also that—

Improvement expenses.

(*b*) when an order has been passed under sub-section (1) of section 105, sub-section (1) of section 107, sub-section (2) or (7) of section 115 or under sections 119, 121, 127 or 128, or when permission has been given under section 122 or when an agreement has been made under proviso (*a*) of this sub-section, the municipal council may without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred as aforesaid by the municipal council to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipal council decides, including interest at the rate of six per cent per annum, and shall be recoverable in the manner described in sub-sections (2) and (3).

Power to levy charges on occupier, who may deduct the same from his rent.

(2) If the defaulter be the owner of the building or land, the municipal council may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (3), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then or any time thereafter,

occupies the building or land under such owner ; and in default of payment thereof by such occupier on demand the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII ; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expense charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which, at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipal council, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable ; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand or which has since accrued, shall be upon such occupier.

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

188. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipal council, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any, occupier opposes the execution of the Act.

189. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect

has been given by the owner to such occupier, any magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall for every day during which he so continues to refuse be punished with fine which may extend to fifty rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(11) *Miscellaneous.*

Entry for purposes of the Act.

190. It shall be lawful for the president, vice-president, chief officer, or any officer authorised by the municipal council for such purpose, to enter, for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land:

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that, in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in case of compensation, etc.

191. (1) If an agreement is not arrived at with respect to any compensation or damages, which are by this Act directed to be paid, the amount and if necessary, the apportionment of the same shall be ascertained and determined by a panchayet of five persons of whom two shall be appointed by the municipal council, two by the party to or from whom compensation or damages may

be payable or recoverable, and one, who shall be presiding member shall be selected by the members already appointed as above.

(2) If either party or both parties, fail to appoint members or if the members fail to select a presiding member within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayet shall be appointed, at the instance of either party, by the District Judge.

(3) In the event of the panchayet not giving a decision within one month from the date of the selection of the presiding member, or of the appointment by the district court of such members as may be necessary to constitute the panchayet, the matter shall, on application by either party, be determined by the district court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be, the procedure provided by the Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the court :

Provided that

(*a*) no application to the Deputy Commissioner for a reference shall be necessary, and

(*b*) the court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(4) In any case where the compensation is claimed in respect of land and the panchayet has given a decision, either party, if dissatisfied with the decision—

(*a*) on the ground of corruption or misconduct of the panchayet, or

(*b*) on the ground of either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the panchayet, or

(*c*) on the ground of the award having been made after the issue of an order of the court superseding the

arbitration and proceeding with the suit or after the expiration of the period allowed by the court, or being otherwise invalid,

may, within a month of the date thereof, apply to the district court, and the matter shall be determined by the district court in accordance with the provisions of sub-section (3).

(5) In any case where the compensation is claimed in respect of any land or building, the municipal council may, after the award has been made by the panchayet or the district court, as the case may be, take possession of the land or building, after paying the amount or the compensation determined by the panchayet or the district court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipal council shall deposit the amount of the compensation in the district court.

Costs or expenses how determined and recovered.

192. If a dispute arises with respect to any costs or expenses which are directed to be paid, by any person under this chapter, the amount, and if necessary, the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the municipal council and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

CHAPTER X.

Prosecutions, Suits and Powers of Police.

Municipal council may prosecute.

193. (1) The municipal council may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any rule or by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act or rule or by-law framed thereunder shall be instituted except within six months next after the commission of such offence.

Jurisdiction of magistrate.

(2) Any prosecution under this Act or under any rules or by-laws thereunder may, save as therein otherwise provided, be instituted before any magistrate, and every fine or penalty imposed under or by virtue of this Act or any rule or by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such magistrate, by the distress and sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Power to compound offences.

194. A municipal council may—

(*a*) compromise with any person who, in the opinion of the municipal council, has committed an offence punishable under this Act or any by-law thereunder and on such compromise no proceedings shall be taken against such person in respect of such offence;

(*b*) withdraw from prosecutions instituted under this Act or under any by-law made thereunder;

(*c*) compound any offence against this Act or against any by-law made thereunder which may by rules made by the Government be declared compoundable;

Provided that the Government may make rules to regulate the proceedings of persons empowered to compromise offences under this section.

Limitation for distraint, etc.

195. No distraint shall be made and no prosecution shall be commenced in respect of any sum due to the municipal council under this Act after the expiration of a period of three years from the date on which such distraint might have been made or prosecution might first have been commenced, as the case may be, in respect of such sum.

Distress lawful though defective in form.

196. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same to be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any court of competent jurisdiction.

Damage to municipal property how made good.

197. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the municipal council shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand, the same shall be levied by distress, and such magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

198. In lieu of any process of recovery allowed by or under this Act, or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipal council to sue in any court of competent jurisdiction the person liable to pay the same.

Power of compromise.

199. (1) The municipal council may compound or compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(2) The municipal council may make compensation out of the municipal fund to any person sustaining

any damage by reason of the exercise of any of the powers vested in it, its officers, and servants under this Act.

(3) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on behalf of the municipal council.

Assistance for the recovery of rent on land.

200. For the purpose of the recovery of any amount due on account of rent from any person to a municipal council in respect of any land vested in such municipal council, the municipal council shall be deemed to be a superior holder, and every such person an inferior holder, of such land, within the meaning of sections 97 and 98 of the Mysore Land Revenue Code, 1888, and the municipal council, as superior holder, shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections superior holders are entitled for the recovery of rent or land revenue payable to them by inferior holders.

Limitation of suits, etc.

201. (1) No suit shall be instituted against any municipal council, president, councillor, officer, servant, or any person acting under the direction of such municipal council, president, councillor, officer or servant for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been in the case of a municipal council delivered or left at its office, and, in case of a president, councillor, officer or servant, or person as aforesaid, delivered to him or left at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, be dismissed if it is not instituted within six months after the accrual of the alleged cause of action.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

Power of police officers.

202. (1) Any police officer may arrest any person committing in his view any offence against any of the

provisions of this Act, or of any rule or by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested shall be detained without the order of a magistrate longer than shall be necessary for bringing him before a magistrate, or than twenty-four hours at the utmost.

(2) It shall also be the duty of all police officers to give immediate information to the municipal council of the commission of any offence against the provisions of this Act, or of any rule or by-law thereunder, and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XI.

Municipal Accounts and Administration Reports.

Prohibition of expenditure not budgeted for.

203. Except as hereinafter provided, no payment of any sum shall be made out of the municipal fund unless the expenditure of the same is covered by a budget grant, provided that the following items shall be excepted from this prohibition, namely:—

(*a*) refunds of taxes and other moneys which the municipal council is authorised by the Act, or the rules made thereunder to make;

(*b*) repayments of moneys belonging to the contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake;

(*c*) sums which the municipal council is required or empowered by this Act to pay by way of compensation;

(*d*) every sum payable—

(i) under section 219 by order of the Deputy Commissioner and under sections 220, 221, 222, 224, and 227 by order of the Government,

(ii) under a decree or order of a civil court passed against the municipal council,

(iii) under a compromise of any suit or other legal proceeding or claim;

(*e*) expenses incurred in the exercise of powers conferred by sections 59(*a*), 174, 175 and 177;

(*f*) all contributions payable by the municipal council to the Government for the maintenance of water-supply, dispensaries, schools and other institutions managed by the Government on behalf of the municipal council or on behalf of the municipal council and any other local authority or local authorities.

Presentation of accounts.

204. (1) Every municipal council shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipal council since the first day of July last preceding and at a general meeting which shall be held between the first day of February and the first day of April a complete account of the actual and expected receipts and expenditure for the official year ending on the thirtieth day of June next following, together with a budget estimate of the income and expenditure of the municipal council for the official year to commence on the first day of July next following.

Budget estimates.

(2) The municipal council shall thereupon decide upon the appropriations, and the ways and means contained in the budget of the year to commence on the first day of July next following. The budget as passed by the municipal council shall be sent to the Government before such date as may be fixed by the Government.

(3) In such budget estimate, the municipal council shall, among other things—

(*a*) make adequate and suitable provisions for such service as may be required for the fulfilment of the several duties imposed on the municipal council by this Act or any other law;

(*b*) provide for the payment, as they fall due, of all instalments of principal and interest for which the

municipal council may be liable in respect of loans contracted by it;

(*c*) provide for the payments of all sums payable to the Government under sections 220 and 221 and of all contributions for the maintenance of water-supply, dispensaries, schools and other institutions or services managed by the Government on behalf of the municipal council or on behalf of the municipal council and any other local authority or authorities;

(*d*) allow for a balance at the end of the said year of not less than such sum as may from time to time be fixed by the Government, generally for all municipalities or specially for any municipality.

(4) If the budget as submitted, fails to make adequate provision for the matters specified in sub-section (3), the Government may modify any part of the budget so as to ensure that such provision is made.

Revision of budget

205. If, in the course of the official year, the municipal council finds it necessary to modify the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services it undertakes, it may do so, provided that without the approval of the Government—

(*a*) no reduction shall be made in the amounts allotted for the several items specified in clauses (*b*) and (*c*) of sub-section (3) of section 204; and

(*b*) the closing balance shall not be reduced below the sum fixed under clause (*d*) of sub-section (3) of section 204.

Maintenance of accounts and restrictions on expenditure.

206. (1) Accounts of the income and expenditure of the municipal fund shall be kept in accordance with the rules prescribed in this behalf.

(2) Expenditure from the municipal fund shall, save as otherwise expressly provided for in this Act, be incurred subject to the restrictions, conditions and limitations imposed in the rules prescribed in this behalf.

(3) The municipal council shall, at the general meeting in July or after audit of the past official year's

accounts, if such audit has not before that general meeting taken place, pass the accounts of the past official year.

Audit of accounts.

207. (1) The municipal accounts shall, from time to time and once in every year at the least, be audited by an auditor appointed by the Government and also by such other agency, if any, as may be prescribed in the rules of the municipal council.

(2) The auditor or auditors shall for the purposes of their office, have access to all the accounts and other records of the municipal council.

(3) The municipal council shall pay from the municipal fund such charges for the audit as may be agreed upon and in the case of a Government auditor such charges as may be prescribed by the Government.

Powers of Government auditor.

208. The Government auditor may—

(*a*) by written requisition require the production before him of any document which he may consider necessary for the proper conduct of his audit;

(*b*) by written requisition require any person accountable for, or having the custody or control of, any such document to appear in person before him; and

(*c*) require any person so appearing before him to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

Duties of Government auditor.

209. (1) The Government auditor shall—

(*a*) as soon as may be after the completion of the audit, deliver to the municipal council a report upon the audit of the municipal accounts;

(*b*) report to the municipal council and to the Deputy Commissioner any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the municipal council or in the municipal accounts; and

(*c*) report to the municipal council and to the Deputy Commissioner any loss or waste of money or other property owned by or vested in the municipal council caused by neglect or misconduct, with the names of persons directly or indirectly responsible for such loss or waste.

(2) The municipal council shall forthwith remedy any defects or irregularities that may be pointed out by the auditor. Municipal council to remedy defects.

210. (1) The Government auditor shall disallow every item contrary to law and report the same to the Deputy Commissioner with particulars as regards the person making, or authorising the making of, the illegal payment. Disallowance by Government auditor and order by Deputy Commissioner.

(2) The Deputy Commissioner may, on the report of auditor or on his own motion, pass an order charging any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person after affording him an opportunity to explain and shall, in every such case, certify the amount due from such person.

(3) The Deputy Commissioner shall state in writing the reasons for his decision in respect of every charge and furnish a copy thereof to the person against whom it is made.

211. Any person aggrieved by the order of the Deputy Commissioner under the last preceding section may, within one month after he has received or been served with the decision of the Deputy Commissioner, either apply to the principal civil court of original jurisdiction to set aside such charge and the court, in such case after taking such evidence as is necessary, may confirm, modify or remit such charge with such orders as to costs as it may think proper in the circumstances; or in lieu of such application the person so aggrieved may, within the like period appeal to the Government who shall pass such orders as it thinks fit. Appeal from order of Deputy Commissioner.

212. Every sum certified to be due from any person by the Deputy Commissioner under this Act shall be paid by such person to the municipal council within one month after the intimation to him of the said decision unless within that time such person has appealed to the court or to the Government against the decision; and such sum if not so paid, or such sum as the court or the Recovery of amounts disallowed.

Government shall declare to be due, shall be recoverable by the Deputy Commissioner as an arrear of land revenue and credited to the municipal fund.

Transmission of accounts to Government.

213. The municipal council shall, as soon as the annual accounts have been finally passed by it, transmit to the Government, or any officer duly authorised by it in this behalf, a copy thereof, or an account in the form prescribed in this behalf and shall furnish such details and vouchers relating to the same as the Government or such officer may from time to time direct.

Publication of accounts.

214. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipal council may prescribe in this behalf.

Annual administration report.

215. (1) As soon as may be after the first day of July in every year and not later than such date as may be fixed by the Government, the municipal council shall submit to the Government, a report on the administration during the preceding official year in such form and with such details as the Government may direct.

(2) In a municipality for which there is a municipal commissioner, the municipal commissioner and in other municipalities the president shall prepare the report and place it before the municipal council for consideration and forward it to the Government with the resolution of the municipal council thereon.

(3) The report may be published in such manner as the municipal council, subject to the approval of the Government, may direct.

CHAPTER XII.

CONTROL.

Powers of inspection and supervision.

216. The Deputy Commissioner or any officer of the Government authorised by the Government by a general or special order shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any municipal council or any institution under its control

or management, or any work in progress under it or under its direction ;

(*b*) to call for any extract from the proceedings of any municipal council or of any committee, or for any book or document in the possession of or under the control of a municipal council, and any return, statement, account, or report which he may think fit to require such municipal council to furnish ;

(*c*) to require a municipal council to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipal council, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipal council, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

Power to inspect the office of municipal council.

217. (1) The Government or any officer authorised by the Government in this behalf shall have power to inspect the office of any municipal council and call for the records of any such municipal council.

(2) The officer authorised under sub-section (1) shall submit the records for the orders of Government, if he is satisfied that the order or proceeding of the municipal council or its executive is contrary to law or orders for the time being in force.

Deputy Commissioner's power of suspending execution of orders, etc., of municipal councils.

218. (1) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a municipal council, or the doing of anything which is about to be done or is being done by or on behalf of a municipal council, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, or is unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Deputy Commissioner's order to be reported to Government who may confirm or modify it.

(2) When a Deputy Commissioner makes any order under this section, he shall forthwith forward to the Government and to the municipal council affected thereby a copy of the order, with a statement of the reasons for making it ; and it shall be in the discretion of the Government to rescind the order, or to direct that it continue in

force with or without modification, permanently or for such period as it thinks fit :

Provided that no order of the Deputy Commissioner passed under this section shall be confirmed, revised or modified by the Government without giving the municipal council reasonable opportunity of showing cause against the said order.

Extraordinary powers of Deputy Commissioner in case of emergency.

219. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a municipal council is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipal council.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing any person, who, for the time being, has custody of any moneys on behalf of the municipal council, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-section (2) of section 218 shall apply, so far as may be, to any order made under this section.

Agency for execution of public works.

220. (1) The Government, after consulting the municipal council, may direct that such public works as in the opinion of the Government require a degree of professional skill which may not be at the disposal of the municipal council shall be carried out by the Government or by such agency as the Government may specify.

(2) All other works of the municipal council shall be executed by such agency and subject to such supervision as the municipal council thinks fit, subject to the rules prescribed in this behalf.

(3) When any work is executed for a municipal council by the Government or by any other agency under

the orders of the Government, the expense incurred on the work together with the charges for supervision and for tools and plant at such rates as may be fixed by the Government, from time to time, unless waived by the Government, be payable to the Government.

(4) If the amount due to the Government under sub-section (3) is not paid within a reasonable time, the Government may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund and such person shall, so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

Special provision in regard to works executed by the Government.

221. (1) Notwithstanding anything contained in this Act, it shall be lawful for the Government at any time after consulting the municipal council—

(*a*) to construct any work or works of a permanent nature which, in the opinion of the Government, is or are necessary or desirable for the health or safety of the inhabitants, whether within any municipality or without it wholly or in part;

(*b*) to retain the management and maintenance of any such work or to entrust the same, in whole or in part, to the municipal council, or to resume the same from the municipal council;

(*c*) to recover the capital cost of any such work and of its management and maintenance, together with interest thereon at such rate as the Government may fix, from the municipal fund or from the proceeds of any tax or taxes imposed under this Act.

(2) It shall be the duty of any person who for the time being has custody of any moneys on behalf of the municipal council, to pay, from such moneys as he may have in his hands or may from time to time receive, all amounts directed by the Government to be paid by the municipal council under clause (*c*) of the preceding sub-section.

(3) The provisions of this section shall be deemed to apply with retrospective effect in respect of the works heretofore carried out at the expense of Government for the water-supply of the cities of Bangalore and Mysore.

Government inquiry into municipal matters.

222. (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal area or any matters with respect to which its sanction, approval or consent is required under this Act.

(2) The officer holding such inquiry shall, for the purpose thereof, have the powers which are vested in a court under the Code of Civil Procedure in respect of the following matters :—

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1904.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of such officer's jurisdiction shall be the limits of the Mysore State.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding six per cent per annum; and such costs and interest shall be leviable as an arrear of land revenue.

(*Chapter XII—Control*)

Power of Government to prevent extravagance in the employment of establishment.

223. (1) If in the opinion of the Government the number of persons who are employed by a municipal council as officers or servants or whom a municipal council proposes to employ, or the remuneration assigned by the municipal council to those persons, or to any particular person, is excessive, the municipal council shall, on the requirement of the Government, reduce the number of the said persons or the remuneration of the said person or persons.

(2) It shall be lawful for the Government—

Government may require any municipal council to appoint a health officer, or an engineer.

(i) to require, if in its opinion at any time such an appointment is necessary, the appointment of a health officer, or of an engineer or both to be made by any municipal council;

(ii) to make in its discretion an order vetoing the appointment, or continuance in any such office, of any person selected therefor or appointed thereto by any such municipal council, and the tenure of such office by any such person shall cease and determine on and from the date on which such order is communicated to the municipal council;

(iii) to require that any person appointed to be a chief officer or a municipal commissioner shall be invested by any such municipal council with all or any of the powers which can, under this Act or under any rules in force at the time, be lawfully delegated to him, in addition to such powers as are conferred on him by section 236 or by Chapter XIV, as the case may be;

(iv) to require that all or any of the powers referred to in section 174 or in section 175 (if the conditions under which that section comes into operation exist), shall be delegated by any such municipal council, whether there be a chief officer or not, to the president, vice-president or any such councillor as the Government may deem fit.

(3) Any requisition issued to the municipal council under clause (i), (iii) or (iv) of sub-section (2) above

shall be complied with within such time as the Government may in each case, prescribe in that behalf.

Power of Government to provide for performance of duties, in default of municipal council.

224. (1) When the Government is informed, on complaint made or otherwise, that a municipal council has made default in performing any duty imposed on it by or under this Act, or by or under any enactment for the time being in force, the Government, if satisfied after due inquiry that the municipal council has been guilty of the alleged default, may fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Government may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipal council.

(3) If the expense and remuneration are not so paid, the Government may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipal council, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

Power of Government to direct person in custody of municipal fund to pay Government dues.

225. If a municipal council makes default in the payment of any amount due to the Government it may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund and such person shall, so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

Power of Government to dissolve or supersede municipal council in case of incompetency, default, or abuse of powers.

226. (1) If after such enquiry as the Government may consider necessary, the Government is of opinion that any municipal council is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Government may, by an order published, with the reasons for making it in the Official Gazette, declare the municipal council to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and

may dissolve such municipal council or supersede it for a period to be specified in the order.

Consequences of exercise of such power.

(2) When the municipal council is so dissolved or superseded, the following consequences shall ensue :—

(a) all councillors of the municipal council shall, in the case of dissolution as from the date specified in the order of dissolution and in the case of supersession from the date of the order of supersession, vacate their offices as such councillors ;

(*b*) all powers and duties of the municipal council shall during the period between dissolution and reconstitution or of supersession, be exercised and performed by such person or persons as the Government from time to time appoints in that behalf ;

(*c*) all property vested in the municipal council shall, during the period between dissolution and reconstitution or of supersession, vest in the Government.

(3) After the issue of an order under sub-section (1), the municipal council shall by the election or appointment of councillors be reconstituted—

(i) in the case of dissolution, on the date specified in the order, or

(ii) in the case of supersession on the date specified in the order under sub-section (1) or sub-section (4) as the case may be.

Power after enquiry to continue period of supersession.

(4) If, after enquiry made, the Government so directs, the period of supersession with all the consequences aforesaid shall from time to time, be continued by an order published as aforesaid until such date as may be fixed by the Government for the re-establishment of the municipal council.

Disputes between a city municipal council and one or more other local authorities.

227. (1) If any dispute for the decision of which this Act does not otherwise provide exists between a city municipal council and one or more other local authorities in regard to any matters arising under the provisions of this or any other Act and the dispute is not amicably settled the matter shall be referred to the Government who may take cognizance of the dispute and decide it ; and the decision of the Government shall be final.

(2) No suit shall be entertained by a civil court in respect of any dispute referred to in sub-section (1).

Power of Government to make rules and orders.

228. (1) The Government may make rules or orders generally for the purpose of carrying into effect the provisions of this Act and prescribe forms for any proceeding for which it considers that a form should be provided.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules or orders—

(*a*) with reference to all matters expressly required or allowed by this Act to be prescribed;

(*b*) (i) for fixing the dates and the time and manner of holding elections, general or casual, of councillors to be elected:

(ii) for prescribing the qualifications [1] of candidates;

(iii) for preparing and revising the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received; [1]

(iv) for determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what authority the appeals as to such entries and omissions shall lie;

(v) for prescribing the date, subject to the provisions of sub-section (1) of section 11 for the publication of the municipal election roll;

(vi) for regulating generally elections of councillors and other matters incidental or ancillary thereto including deposits to be made by candidates standing for election and the conditions under which such deposits may be forfeited;

1. Certain words omitted by Act XXXVI of 1951.

(*c*) for the regulation of all or any of the matters specified in clauses (*b*), (*c*), (*e*), (*f*) and (*g*) of section 49 ;

(*d*) the contributions to be made by the municipal council to the pension and leave allowances of an officer who is serving or while having served under a municipal council has been or is transferred from or to the service of the Government, or is partly employed by the Government and partly by a municipal council ;

(*e*) for regulating the period of service of all officers and servants and determining the conditions under which such officers and servants, or any of them, shall receive pensions, gratuities, or compassionate allowances on retirement, or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities, or compassionate allowances ; and for prescribing the conditions under which any gratuities, or compassionate allowances may be paid to the surviving relations on the death of any such officers or servants ;

(*f*) prescribing the limitations, restrictions, modifications, conditions or regulations subject to which any municipal council shall exercise the powers conferred under section 179 shall be exercised and prescribing a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of an order made or conditions imposed by any municipal council in exercise of the powers conferred upon it under the said section or in pursuance of the rules prescribed in that behalf ;

(*g*) as to the conditions under which ratepayers may appear before the Government auditor, inspect books and vouchers and take exception to items entered in the accounts or omitted therefrom ;

(*h*) for the proper management and maintenance of any work constructed under section 221 and for the regulation of all matters and things connected therewith ;

(*i*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed out of the municipal fund and the authority by whom, and the conditions subject to which, such plans and estimates for works may be sanctioned ;

(*j*) as to the transfer to municipal councils the management of any institution not otherwise provided for by this Act ;

(*k*) for submission of returns, statements and reports and the preparation, submission and sanction of the annual estimates of receipts and expenditure and the administration reports ;

(*l*) for the regulation of all matters connected with the grant of permission under section 116 ;

(*m*) for prescribing punishment not exceeding five hundred rupees for breach of any rule and also a further fine which may extend to twenty-five rupees for every day on which such breach continues after the date of conviction or any subsequent date as may be fixed by the magistrate.

(3) A rule may be general for all municipalities, or for all municipalities not expressly exempted from its operation, or may be special for the whole or any part of any one or more municipalities, as the Government may direct.

(4) The power of Government to make rules under this Act shall be subject to the condition of previous publication. All rules made by the Government under this Act shall be published in the Official Gazette both in English and Kannada and shall thereupon have effect as if enacted in this Act.

Power of Government to cancel or modify by-laws and rules of municipal councils.

229. (1) The Government may, at any time, by notification in the Official Gazette repeal wholly or in part or modify any rule or by-law made by any municipal council :

Provided that before taking any action under this sub-section the Government shall communicate to the municipal council the grounds on which it proposes to do so, fix a reasonable period for the municipal council to show cause against the proposal and consider the explanation and objections, if any, of the municipal council.

(2) The repeal or modification of any rule or by-law shall take effect from the date of publication of the

notification in the Official Gazette, if no date is therein specified, and shall not affect anything done, omitted or suffered before such date.

Powers of Government and of the Deputy Commissioners over subordinates.

230. In all matters connected with this Act, the Government and each Deputy Commissioner shall, respectively, have and exercise the same authority and control over the Deputy Commissioners and their subordinates, as it or he has and exercises over them in the general and revenue administration.

Powers of officers acting for, or in default of, municipal council and liability of municipal fund.

231. When the Deputy Commissioner or any officer of the Government or any person appointed by him or the Government lawfully takes action on behalf or in default of the municipal council under this Act, he shall have power to make such contracts as are necessary for the purpose, and shall be entitled to the same protection under this Act as the municipal authority whose powers he is exercising, and compensation shall be recoverable from the municipal fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such municipal authority.

Restriction on the powers of the Deputy Commissioner.

232. The Deputy Commissioner shall not exercise the powers conferred on him under sections 216, 218 and 219 except under the special orders of the Government.

Power of Government to transfer Municipal Employees.

[1][**232-A.** (1) Notwithstanding anything contained in this Act, the Government shall have power to transfer any officer or servant of a Municipality to the service of any other Municipality or of any District Board constituted under [2] the Mysore District Boards Act, 1926, or of any Government Department.

(2) The Government shall have power to issue such general or special directions as it may think necessary for the purpose of giving due effect to transfers made under sub-section (1).

Delegation of powers.

232-B. The Government may delegate all or any of its powers under this Act to any officer subordinate to it.]

1. Inserted by Act I of 1938.
2. Repealed and re-enacted as Mysore Act IV of 1952.

CHAPTER XIII.

APPOINTMENT AND POWERS OF CHIEF AND OTHER MUNICIPAL OFFICERS.

Appointment of Chief Officer.

233. (1) Any municipal council may and when required by the Government by an order in this behalf shall within such time as may be fixed therein, appoint a chief officer for the municipality.

(2) The appointment of a person as chief officer shall be subject to the approval of the Government.

(3) No such officer shall, save with previous approval of the Government, be removable from office, reduced, or suspended unless—

(*a*) by a resolution of the municipal council at a general meeting passed by a majority of not less than two-thirds of the whole number of councillors, or

(*b*) by resolutions of the municipal council at two general meetings convened for the purpose within an interval of not less than one month and not more than four months from each other passed by a majority of not less than one-half of the whole number of councillors.

(4) It shall be in the discretion of the Government to make an order vetoing the continuance in the office of chief officer of any person appointed thereto and the tenure of such office by such person, shall cease and determine on and from the date on which such order is communicated to the municipal council.

(5) When a chief officer shall have been appointed, all other officers and servants employed by the municipal council, save such as are excepted by order of the Government from time to time, shall be subordinate to him.

Appointment of Health Officer and Engineer.

234. (1) Any municipal council may, with the sanction of the Government, appoint a Health Officer and an Engineer or any one or more of such officers, whether temporarily or permanently.

(2) No such officer shall, save with the previous sanction of the Government, be removable from office, reduced or suspended, unless by the votes of at least two-thirds of the whole number of councillors.

(*Chapter XIII—Appointment and powers of Chief and other Municipal Officers*)

[1][234-A. Notwithstanding anything contained in this Act— Power of Government to assume powers of appointment by notification.

(*a*) the Government may, by notification, take power to appoint the Chief Officer, the Health Officer or the Engineer in the case of any Municipal Council;

(*b*) the Government may, at any time, withdraw any such Chief Officer, Health Officer or Engineer and appoint another in his place; and

(*c*) the Government shall have power to regulate the methods of recruitment conditions of service, pay and allowances and discipline and conduct of Chief Officers, Health Officers and Engineers appointed under clause (*a*).

234-B. So long as a notification under clause (*a*) of section 234-A is in force, the Municipal Council in respect of which such notification is made, shall cease to exercise the powers of appointment under sections 233 and 234 of this Act.] Municipal Council to cease exercising powers of appointment in certain case.

235. The chief officer shall— Duties of chief officer.

(*a*) subject to the general control of the president, perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act;

(*b*) subject to the orders of the president, or of the managing committee or of the municipal council, as the case may be, take prompt steps to remove any irregularity pointed out by the auditors;

(*c*) report to the president, the managing committee and the municipal council all cases of fraud, embezzlement, theft or loss of municipal money or property;

(*d*) supply any return, statement, account or report or a copy of any document in his charge called for by the municipal council or the managing committee and shall comply with any orders passed by the municipal council or the managing committee thereon; and

(*e*) subject to the control of the president, perform and exercise the duties and powers of the president specified in clauses (*b*), (*f*) and (*g*) of sub-section (1) of

1. Inserted by Act III of 1938.

section 24 and in clause (*e*) of the same sub-section in regard to officers and servants of the municipal council subordinate to the chief officer.

Powers of chief officers.

236. The chief officer shall exercise the powers hereinafter specified, and such other powers as may be delegated to him by the municipal council under the provisions of this Act—

(*a*) he shall have power, subject to the provisions of this Act and of the by-laws for the time being in force thereunder, to grant, give and issue under his signature all licenses and permissions which may be granted or given by a municipal council under this Act, other than licenses for markets or slaughter-houses ;

(*b*) he may, subject to the provisions aforesaid, at his discretion suspend, withhold or withdraw any license in any case in which he is empowered as aforesaid to grant or give a license, and in which the municipal council may under the provisions aforesaid suspend, withhold or withdraw such license ;

(*c*) he shall receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid ;

(*d*) he may, subject to the control of the president and to the provisions of section 41—

(i) enter on behalf of the municipal council into contracts which do not involve an expenditure of over fifty rupees ; and

(ii) invite, on behalf of the municipal council and by public notice, tenders for the execution of any approved work or for the supply of any materials or goods required by the municipal council ; and

(*e*) he may make such requisitions, by written notice give such written consent or premission, issue such orders and prohibitions, and exercise all such powers as may be made, given, issued or exercised by a municipal council under any provisions contained in —

section 78,
section 82, sub-sections (2) and (3),
section 88,

(*Chapter XIII—Appointment and powers of Chief and other Municipal Officers*)

section 92, sub-sections (3), (4) and (5),
section 94, proviso to sub-section (2),
section 95,
section 96,
section 97,
section 99,
section 101, sub-section (3),
section 107, sub-section (2),
section 113,
section 115, sub-sections (2), (3) and clause (*a*) of sub-section (6),
section 117,
section 119,
section 122,
section 131, sub-section (1),
section 132,
section 136,
section 137,
section 139,
section 140,
section 141,
section 142,
section 143,
section 144,
section 145,
section 146,
section 147,
section 148,
section 149,
section 150,
section 151,
section 153,
section 154, sub-section (1),
section 155,
section 156,
section 158,
section 161,
section 167, sub-section (3),
section 172,
section 173,
section 174, sub-section (2),
section 185 and
section 186.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Chief officer's powers of appointment and punishment.

237. The chief officer shall have, independently of such powers as may be delegated to him by the municipal council in this behalf, power—

(a) to appoint—

(i) without the previous sanction of the municipal council, to any post the monthly salary for which does not exceed fifteen rupees, and

(ii) with such previous sanction, in each case, any post under the municipal council other than that of the health officer, engineer or chief accountant, and

(b) to fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed fifteen rupees, and, subject to the provisions of the rules for the time being in force, any other municipal officer or servant not being the health officer, engineer, or chief accountant, provided that his order in respect of any punishment shall be subject to an appeal to the municipal council.

Chief Officer may make explanations at meetings.

238. The chief officer may, with the permission of the president, or in virtue of a resolution passed in this behalf at any meeting of the municipal council or of any committee, make an explanation, in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at any such meeting.

CHAPTER XIV.

Municipal Commissioner, His Powers and Duties.

Appointment of municipal commissioner.

239. (1) Notwithstanding anything contained in chapter XIII, the Government may appoint a municipal commissioner for any city municipality.

(2) On the appointment of a municipal commissioner, the appointment of chief officer, if any, shall forthwith terminate, provided that the appointment of a municipal commissioner shall not be made until such notice has been given to the chief officer, as the term of his appointment entitles him to receive and until the expiry of the period specified in such notice.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

(3) The Government may, at any time, discontinue the appointment of a municipal commissioner for any municipality for which such appointment has been made.

Removal from office.

240. (1) A municipal commissioner who is not a salaried servant of the Government shall hold office for a period of three years, in the first instance, and thereafter for such further period not exceeding three years at a time as the Government may in each case determine. A municipal commissioner who is a salaried servant of the Government shall hold office for such period as the Government may, from time to time, fix in each case.

(2) A municipal commissioner may be removed from office at any time by the Government if it shall appear to the Government that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient.

(3) The municipal commissioner shall be removable from office by the Government if at a special general meeting of the municipal council called for the purpose. not less than two-thirds of the whole number of councillors vote for such removal.

Salary of municipal commissioner.

241. (1) A municipal commissioner shall receive such monthly salary payable wholly by the municipal council or partly by the municipal council and partly by the Government, as the Government may from time to time, determine with due regard to the resources of the municipality.

Prohibition of engagement in other business.

(2) A municipal commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force, and shall not engage in any other profession, trade or business whatever:

Provided that the Government may assign to him any other work of local importance or interest, if in its opinion, he can perform such additional work without prejudice to his duties as municipal commissioner.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Leave of absence.

242. (1) The Government may, from time to time, in consultation with the municipal council, grant leave of absence for such period as it thinks fit to a municipal commissioner.

Leave allowance.

(2) The allowance to be paid to a municipal commissioner while absent on leave, shall be of such amount, not exceeding his salary, as shall be fixed by the Government :

Provided that, if the municipal commissioner is a salaried servant of the Government, the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowances of salaried servants of the Government of his class.

Appointment of substitute.

(3) During any absence on leave, or other temporary vacancy in the office of a municipal commissioner, the Government may appoint a fit person to act as municipal commissioner. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by or under this Act or by any other enactment for the time being in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable.

Contribution from municipal council towards pensions and leave allowances of municipal commissioners.

243. (1) When a salaried servant of the Government is appointed to be a municipal commissioner, the municipal council shall, unless specially exempted wholly or in part from liability by the Government, contribute to his pension and leave allowances to the extent required by the rules prescribed under sub-section (2) of section 228.

(2) When a person other than a salaried servant of the Government is appointed to be a municipal commissioner, the municipal council shall pay from municipal fund the whole of his leave allowances fixed, as hereinbefore provided by the Government, and may, with the sanction of the Government, grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Power of municipal council to require returns, reports or production of documents.

244. (1) The municipal council may require the municipal commissioner to furnish it with—

(*a*) any return, statement, estimate, statistics, or other information regarding any matter appertaining to the administration of this Act or to the municipal government of the municipality;

(*b*) a report on any such matter; and

(*c*) a copy of any document in his charge:

Provided that in emergent cases which do not admit of delay till a meeting of the municipal council is called, the president may call for information, return, statistics, estimate, etc., referred to above.

(2) The municipal commissioner shall comply with every such requisition without unreasonable delay.

Powers of municipal commissioners and limitations thereon.

245. A municipal commissioner shall exercise the powers hereinafter specified, and such other executive powers as may be delegated to him by the municipal council under the provisions of this Act—

(1) he shall, subject to the provisions of this Act and save where it is otherwise expressly provided in this Act, perform and exercise the duties and powers of the president under clauses (*b*), (*d*), (*e*) and (*g*) of sub-section (1) of section 24;

(2) he shall exercise all the powers specifically conferred on the chief officer by the provisions of this Act; and

(3) he may make such requisition by written notice, give such written consent or permission, issue such orders and prohibitions, exercise all such powers and perform all such duties as may be made, given, issued, exercised and performed by a municipal council under any of the provisions contained in the following sections or sub-sections, namely:—

section 73,

section 81, except in cases where the amount to be remitted or refunded exceeds two hundred and fifty rupees.

(*Chapter XIV—Municipal Commissioner, His Powers and Duties*)

section 83,
section 91,
section 93,
section 105,
section 107,
section 109,
section 110,
section 112,
section 115,
section 118,
section 120,
section 121,
section 124,
section 126,
section 127,
section 128,
section 129,
section 130,
section 131, sub-section (2),
section 133, sub-section (1),
section 135,
section 138,
section 159,
section 174,
section 175,
section 177,
section 178,
section 181,
section 187,
section 188,
section 190,
section 192,
section 193, and
section 194.

Provided as follows :—

(*a*) The powers conferred on the municipal council by or under the provisions contained in section 83, section 105, section 107, section 110[1] sub-section (1) of section 129, section 135, sub-section (1) of section 138, and, in the

1. Certain words omitted by Act XVI of 1950.

case of a well, section 159, shall not be exercised by the municipal commissioner except subject to the general or special orders of the municipal council or, in the absence of such orders, with the previous approval of the municipal council ;

(*b*) The powers conferred on the municipal council by or under any of the provisions of this Act (i) to make rules or by-laws, and (ii) to authorise the president or the vice-president, or a committee or a councillor to do anything, shall not be exercised by the municipal commissioner ;

(*c*) Property, whether movable or immovable, vested in or belonging to or otherwise held by the municipal council, shall not be deemed to vest in or belong to or otherwise to be held by the municipal commissioner ;

(*d*) The power conferred by section 193 to direct a prosecution or to order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections shall not be exercised by the municipal commissioner except with the previous approval of the municipal council ;

section 46, sub-section (4) of section 107, section 165 and clause (*f*) of sub-section (2) of section 228.

Municipal commissioner deemed to be authorised in certain matters although not expressly so authorised.

246. When a municipal council empowered by any of the provisions of this Act or by any by-laws made hereunder to authorise an officer to exercise any power whatever or to do anything, has so authorised any officer, it shall be deemed so to have authorised the municipal commissioner notwithstanding that it has not expressly so authorised him.

Punishment for person disobeying lawful direction given by municipal commissioner.

247. Whoever disobeys or fails to comply with a lawful direction given by the municipal commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the municipal council in the same matter.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Powers of municipal commissioner to appoint, grant leave, punish and dismiss.

248. (1) A municipal commissioner shall have, independently of such powers as may be delegated to him by the municipal council in this behalf, power without the sanction of the municipal council—

(*a*) to appoint, subject to the rules for the time being in force, a fit person to any post under the municipal council, the monthly salary for which does not exceed sixty rupees, other than to the post of health officer, engineer, chief accountant, manager or auditor;

(*b*) to grant, subject to the rules for the time being in force, leave of absence to the holder of any post to which the municipal commissioner has power to appoint, and to appoint a fit person to act for such holder during such absence;

(*c*) to fine, reduce, suspend or dismiss the holder of any post to which the municipal commissioner has power to appoint.

(2) When a municipal commissioner has been appointed under the provisions of this Act, all other officers and servants employed by the municipal council shall be subordinate to him.

Order not subject to appeal except in certain cases.

249. No appeal shall lie to the municipal council in respect of any order passed or anything done by a municipal commissioner in the exercise of powers conferred upon him by or under the provisions of this Act except in the case of an order passed or anything done by him under any of the following provisions, namely:—

(*i*) Sub-section (4) of section 107, (*ii*) sub-sections (1) and (2) of section 109, (*iii*) [1][sub-clause (*b*) of clause (*i*) of sub-section (6) of section 115,] (*iv*) sub-section (1) of section 118, (*v*) sub-section (1) of section 120, (*vi*) sub-section (1) of section 124, (*vii*) sub-section (2) of section 154, (*viii*) section 155, (*ix*) section 181, (*x*) section 182, (*xi*) clause (*b*) of sub-section (1) of section 187, (*xii*) section 192, (*xiii*) clause (*c*) of sub-section (1) of section 248 in respect of an order of dismissal.

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1. Substituted by Act XVI of 1950.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Delegation of powers of municipal commissioner.

250. (1) With the sanction of the municipal council, the municipal commissioner may by general or special order in writing delegate to any municipal officer or servant any of the municipal commissioner's powers, duties or functions under this Act or under any rule or by-law made hereunder except such as are conferred or imposed upon or vested in him under the following sections, namely, 181, 193 and 248.

(2) The exercise or discharge by any municipal officer or servant of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order and also to the control of and revision by the municipal commissioner.

Power to execute contracts on behalf of municipal council.

251. In any municipality for which a municipal commissioner has been appointed, notwithstanding anything contained in section 41, the following provisions with respect to the making of contracts under or for any purposes of this Act shall have effect, namely :—

(*a*) every such contract shall be made on behalf of the municipal council, by the municipal commissioner;

(*b*) no such contract for any purpose which the municipal commissioner is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract for the purchase, sale, lease, mortgage or other transfer of immovable property, shall be entered into by the municipal commissioner except with the approval or sanction of the municipal council;

(*d*) no contract which will involve an expenditure exceeding five hundred rupees shall be made by the municipal commissioner except with the approval or sanction of the municipal council;

(*e*) every contract made by the municipal commissioner involving an expenditure exceeding two hundred and fifty rupees and not exceeding five hundred rupees

shall be reported by him, within fifteen days after the same has been made, to the municipal council;

(*f*) the foregoing provisions of this section shall apply to every variation or discharge of a contract as to an original contract.

Mode of executing contracts.

252. (1) Notwithstanding anything contained in sub-sections (7) and (8) of section 41, every contract entered into by a municipal commissioner on behalf of a municipal council shall be entered into in such manner and form as would bind such municipal commissioner if such contract were on his own behalf, and may in like manner and form be varied or discharged:

Provided that—

(*a*) where any such contract, if entered into by a municipal commissioner, would require to be under seal, the same shall be sealed with the common seal of the municipal council;

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the municipal council and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the municipal council shall not be affixed to any contract or other instrument, except in the presence of two members of the managing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(3) No contract not executed in the manner provided in this section shall be binding on the municipal council.

(Chapter XIV—Municipal Commissioner, His Powers and Duties)

Tenders to be invited for contracts involving expenditure exceeding five hundred rupees.

253. (1) Except as is otherwise provided in sub-section (3), a municipal commissioner shall at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, give notice by advertising in the local newspapers, inviting tenders for such contract.

(2) A municipal commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clause (*d*) of section 251, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(3) The municipal council may, subject to the provisions of section 41, authorise the municipal commissioner, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

Security when to be taken for performance of contract.

254. A municipal commissioner shall require security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under the Act.

SCHEDULE A.

ENACTMENTS REPEALED.

Year.	No.	Title or short title.
1906	VII.	The Mysore Municipal Act, 1906.
1911	IX.	An Act further to amend the Mysore Municipal Act of 1906.
1914	VIII.	An Act further to amend the Mysore Municipal Act of 1906.
1915	VIII.	An Act further to amend the Mysore Municipal Act of 1906.
1916	III.	An Act further to amend the Mysore Municipal Act of 1906.
1918	V.	An Act further to amend the Mysore Municipal Act of 1906.
1921	I.	An Act further to amend the Mysore Municipal Act of 1906.
1922	V.	An Act further to amend the Mysore Municipal Act of 1906.
1923	IV.	An Act further to amend the Mysore Municipal Act of 1906.
1926	IV.	An Act further to amend the Mysore Municipal Act of 1906.
1927	VIII.	An Act further to amend the Mysore Municipal Act of 1906.
1928	XIII.	An Act further to amend the Mysore Municipal Act of 1906.
1929	III.	An Act further to amend the Mysore Municipal Act of 1906.
1930	IX.	An Act further to amend the Mysore Municipal Act of 1906.
1931	VI.	An Act further to amend the Mysore Municipal Act of 1906.

(*Schedule I*)

SCHEDULE I.

[*Section 64, clauses (i), (vi) to (x) and (xiii).*]

MAXIMUM RATES OF TAXES OTHER THAN OCTROI, TERMINAL-TAX, TAXES ON VEHICLES AND ANIMALS, TOLLS, TAXES ON ARTS, PROFESSIONS, TRADES AND CALLINGS AND SHOP-TAX.

Taxes	Maximum rate per year
A. Rate on buildings or lands or both—	
(*i*) Lands not occupied by buildings and not appurtenant to any building or attached thereto for use therewith as a garden or pleasure ground or for the pasturage of animals kept for private use.	Eight annas for every one hundred square yards.
(*ii*) Buildings or lands or both not falling under (*i*).	Six per centum on the annual letting value.
B. Tax on dogs	One rupee per head.
C. Special Sanitary Cess ..	Rates that may be notified by the Government from time to time.
D. General Sanitary Cess ..	Do do
E. Water rate or water rates ..	Rates that may be notified by the Government from time to time provided that the rates fixed are deemed by the Government to be reasonable with reference to the expenditure of providing the water supply.
F. Lighting tax	One-third of the rate leviable under item (A).
G. Other taxes leviable under clause (xiii) of section 65.	Rates to be fixed by Government in each case.

(*Schedule II*)

SCHEDULE II.

[*Section* 64, *clauses* (*iv*) *and* (*v*).]

Maximum rates of octroi and terminal tax.

Taxes	Maximum rate
A. Octroi.—	Rs. a. p.
Class I.—Articles of food or drink for men or animals.-	
Coconuts, fresh ..	0 0 1 each.
Coconuts, dry	0 8 0 per maund of 960 tolas.
Betel-leaves	1[0 0 2 per bundle of 100 leaves.]
Sugar	1 0 0 per cent *ad valorem*.
Jaggery	0 2 0 per maund of 960 tolas weight.
Ghee	0 8 0 do
Butter	0 6 0 do
Oats	1 0 0 per cent *ad valorem*.
Bran	1 0 0 do
Chaff	1 0 0 do
Class II.—Animals used for slaughter.—	
Sheep and goats ..	0 2 0 per head.
Class III.—Oils and oil seeds—	
Kerosene oil	0 2 0 per tin.
Other oils	0 2 0 per maund of 960 tolas weight.
Oil seeds	0 4 0 per candy of 160 seers.
Class IV.—Articles used in the construction of buildings.—	
1. Timber	Rates to be fixed by the Government from time to time.
2. Chunam or lime ..	0 4 0 per cart load.
3. Roofing tiles (Mangalore pattern) ..	1 9 0 per cent *ad valorem*.
Class V.—Tobacco ..	4 0 0 per maund of 960 tolas.
Class VI.—Piece-goods and other textile fabrics and manufactured articles of clothing and dress ..	0 0 3 per rupee *ad valorem*.
Class VII.—Metals ..	1 9 0 per cent *ad valorem*.
Class VIII.—Other articles which are not specified above and which may be approved by the Government by an order in this behalf	2 0 0 do
B. Terminal Tax ..	Rates to be fixed by the Government from time to time.

1. Substituted for the original figures and words by Act XXVI of 1940.

(*Schedule III*)

SCHEDULE III.

[See *section* 64, *clause* (*ii*).]

VEHICLES, BOATS AND ANIMALS LIABLE TO TAXATION WITH THE MAXIMUM RATES OF TAXATION.

	Yearly. Rs.	a.	p.
For every four-wheeled vehicle with springs constructed to be drawn by two or more horses	20	0	0
For every four-wheeled vehicle with springs constructed to be drawn by a horse, bull or bullock, or by two or more horses under thirteen hands, bulls or bullocks	10	0	0
For every two-wheeled vehicle with springs constructed to be drawn by one or more horses, bulls or bullocks	6	0	0
For every motor bus or motor lorry	60	0	0
For every motor car weighing 15 cwts. or more ..	40	0	0
For every motor car weighing not less than 15 cwts. ..	30	0	0
For every motor cycle	15	0	0
For every other vehicle with springs and every palanquin, bicycle or tricycle and every trailer attached to a motor car	6	0	0
For every cart or other vehicle without springs ..	4	0	0
For every boat	4	0	0
For every elephant	24	0	0
For every camel	12	0	0
For every horse over thirteen hands	10	0	0
For every horse of or under thirteen hands ..	4	0	0
For every horse of or under eleven hands and for every mule	2	0	0
For every bullock or bull	1	0	0
For every male buffalo	1	0	0
For every ass	0	8	0

SCHEDULE IV.

[See *section* 64, *clause* (*xi*).]

MAXIMUM RATES OF TOLLS PAYABLE ON ENTERING THE MUNICIPAL LIMITS.

		Rs.	a.	p.
1.	On every motor bus as defined in the Motor Vehicles Rules or a motor lorry	2	0	0
2.	On every motor car	1	0	0
3.	On every motor tricycle or bicycle or trailer attached to a motor car	0	4	0
4.	On every four-wheeled carriage	0	8	0
5.	On every two-wheeled carriage on springs other than a jutka	0	4	0
6.	On every jutka laden	0	2	0
7.	On every jutka unladen	0	1	0
8.	On every other vehicle with springs including a tricycle or bicycle	0	2	0
9.	On every cart or other vehicle not on springs drawn by two bullocks, buffaloes, horses, ponies, asses or mules, if laden	0	4	0
10.	On every cart or other vehicle not on springs drawn by two buffaloes, bullocks, horses, ponies, asses or mules, if not laden	0	2	0
11.	On every cart or other vehicle not on springs drawn by single bullock, buffalo, horse, pony, ass or mule, if laden	0	2	0
12.	On every cart or other vehicle not on springs drawn by a single bullock, buffalo, horse, pony, ass or mule, if not laden	0	1	0

(*Schedule V*)

SCHEDULE V.

[See *section* 64, *clause* (*xi*).]

MAXIMUM RATES OF TAX ON ARTS, PROFESSIONS, TRADES AND CALLINGS.

CLASS I.

	Yearly.
Every person holding any office or appointment, public or private, or employed in any capacity, whose pay, salary or pension amounts to two thousand rupees a month or upwards and every person falling under any of the following denominations whose income is estimated to amount to two thousand rupees a month or upwards :—	
(i) carrying on business as a company ;	
(ii) abkari renters, wholesale and retail traders, and manufacturers of every kind, contractors, auctioneers and commission agents ;	
(iii) bankers, money-lenders, money-changers and pawn brokers ;	
(iv) editors and proprietors of newspapers ;	
(v) brokers and dealers in securities, shares or bills of exchange ;	
(vi) practising barristers, advocates, high court vakils, solicitors, attorneys, pleaders, and law agents ;	
(vii) practising medical practitioners of all kinds including hakims and vaidyans ;	Rs. 100
(viii) dentists and veterinary surgeons ;	
(ix) architects and civil engineers ;	
(x) owners and farmers of markets and toll-farmers ;	
(xi) keepers of hotels, lodging houses or boarding houses ;	
(xii) builders and surveyors ;	
(xiii) owners of mills, warehouses, printing presses, oil presses, cotton presses and other presses and factories of all kinds ;	
(xiv) professional artists, photographers, actors, owners or managers of circuses or theatrical companies, musicians and dancers ;	
(xv) dealers in animals or vehicles, and owners or keepers of livery stables or hackney carriages ;	
(xvi) artizans.	

CLASS II.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to one thousand five hundred rupees a month or upwards	75

(*Schedule V*—contd.)

CLASS III.

	Rs.
Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to one thousand rupees a month or upwards ..	50

CLASS IV.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to five hundred rupees a month or upwards ..	25

CLASS V.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to three hundred rupees a month or upwards	12

CLASS VI.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to two hundred rupees a month or upwards ..	8

CLASS VII.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to one hundred rupees a month or upwards ..	4

CLASS VIII.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to fifty rupees a month or upwards ..	2

CLASS IX.

Every person described in Class I whose pay, salary or pension amounts, or whose income is estimated to amount to thirty rupees a month or upwards ..	1

NOTE.—The foregoing classification is subject to the following provisos, namely :—

PROVISO 1.—No owner of a cotton press shall be placed in any class below Class IV.

PROVISO 2.—No wholesale trader, banker, barrister, advocate, high court vakil, solicitor, attorney, architect, civil engineer, mill-owner or factory-owner shall be placed in any class below Class V.

PROVISO 3.—No abkari renter (other than a mere liquor shop-keeper), editor or proprietor of a newspaper, broker or

other dealer in securities, shares or bills of exchange, and no pleader, medical practitioner (other than a hakim or vaidyan), dentist or veterinary surgeon shall be placed in any class below Class VI.

PROVISO 4.—No boat-owner, auctioneer, money-lender, owner or, farmer of a market, toll-farmer, keeper of a hotel, lodging-house or boarding-house and no builder, surveyor or owner of a ware-house or press (other than a cotton press or oil press) shall be placed in any class below Class VII.

SCHEDULE VI.

[*See section 64, clause (xii)*.]

MAXIMUM RATES OF TAX ON SHOPS AND OTHER PLACES OF BUSINESS OR PROFESSION.

Items	Sort					
	1st	2nd	3rd	4th	5th	6th
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Shops. (For each shop per year)..	50	40	30	20	10	5
2. Other places where business or profession is carried on for purposes of profit. (For each place per year.) ..	50	40	30	20	10	5

SCHEDULE VII.

[*See clause (b) of section 65.*]

Notice is hereby given to the inhabitants of the municipality of ..... that the municipal council desires to impose the tax, rate, toll, octroi or cess (as the case may be) defined in the rules appended, [in lieu of the tax known as the ..... which is published at page ..... of the sanctioned rules.]

To be inserted if the tax is to be substituted for any existing tax.

Any inhabitant of the municipality objecting to the proposed tax may, within one month from the date of this notice, send his objections in writing to the municipal council.

RULES.

[The rules prepared by the municipal council under clause (*a*) of section 65 are to be appended here.]

SCHEDULE VIII.

(*See section* 78.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To the President of the municipal council.

I, A. B., hereby give notice, as required by section 77 of the Mysore City Municipalities Act, 19 , of the following transfer of property :—

Date of notice	Date of instrument	Name of vendor or assignor	Name of purchaser or assignee	Amount of consideration	Description of the property					If instrument has been registered, the date of registration	Remarks
					Of what it consists	Situation	Number in assessment list	Dimensions of land	Boundaries		

(Sd.) A. B.

(*Schedule IX*)

SCHEDULE IX.

(*See section* 78.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To the President of the municipal council.

I, A. B., hereby give notice, as required by section 77 of the Mysore City Municipalities Act, 19 , of the following transfer of property :—

Date of notice	In whose name the property is at present entered in the municipal registers	To whose name it is to be transferred	Description of property					Remarks
			Of what it consists	Situation	Number in assessment list	Dimensions of land	Boundaries	

(Sd.) A. B.

(*Schedules X and XI*)

SCHEDULE X.

[*See sub-section* (3) *of section* 95.]

FORM OF NOTICE OF DEMAND.

To

A. B., residing at .....

Take notice that the municipal council of ..... demand from..... the sum of..... ..... due from .... on account of ..... (here describe the property or other subject in respect of which the tax is leviable) leviable under rule No. ..... for the period of ..... commencing on the day of ..... 19 .... and ending on the ..... day of ..... 19 ...., and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at ..... or sufficient cause for non-payment is not shown to the satisfaction of the municipal council, a warrant of distress will be issued for the recovery of the same with costs.

Dated this ..... day of ..... 19 ..,

(Signed)

By order of the municipal council of

SCHEDULE XI.

[*See sub-section* (1) *of section* 96.]

FORM OF WARRANT.

To

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B., of ..... has not paid, and has not shown satisfactory cause for the non-payment, of the sum of .. .. due for the tax * ..... mentioned in the margin for the period commencing on the day of 19 ...., and ending with the ..... day of ..... 19 .... and leviable under rule No. .....

* Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain, subject to the provisions of section 96 of the Mysore City Municipalities Act, 19 ....., the goods and chattels of the said A, B to the amount of ....., being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax			
For service of notice			

and forthwith to certify to me together with the warrant all particulars, of the goods distrained by you hereunder.

Dated this ..... day of ..... 19 ..,

(Signed.)

President (or as the case may be), see section 96 (2).

(*Schedule XII*)

SCHEDULE XII.

[*See clause* (c) *of sub-section* (5) *of section* 96 *and sub-section* (1) *of section* 92.]

FORM OF INVENTORY AND NOTICE.

To

A. B., residing at .....

Take notice that I have this day distrained the goods and chattels specified in the inventory beneath this, for the value of.... ..... due for the tax * ..... mentioned in the margin for the period commencing with the day of ..... 19 ...., and ending with the day of ..... 19 ...., together with Rs. ..... due as for service of notice of demand, and that unless within five days from the day of the date of this notice you pay into the municipal office at ..... the said amount together with the costs of recovery, the said goods and chattels will be sold.

* Here descri the tax.

Dated this ..... day of ..... 19 ,

Signature of Officer executing the warrant. / collecting octroi / collecting toll.

INVENTORY.

(Here state particulars of goods and chattels distrained.)

(Preliminary)

MYSORE ACT No. X OF 1933

(Received the assent of His Highness the Maharaja on the 29th day of June 1953.)

An Act to amend the Hindu Law as to the Rights of Women and in certain other respects.

Preamble. Whereas it is expedient to amend the Hindu Law as to the Rights of Women, and in certain other respects ; It is hereby enacted as follows :—

PRELIMINARY.

Short title. **1.** (1) This Act may be called the Hindu Law Women's Rights Act, 1933.

Extent. (2) It extends to [1][the whole of the State of Mysore except Bellary District.]

Commencement. (3) It shall come into force on the first day of January 1934.

Application. **2.** (1) This Act applies to persons who but for the passing of this Act, would have been subject to the law of Mitakshara in respect of the provisions herein enacted.

(2) Save as aforesaid, nothing herein contained shall be deemed to affect any rules or incidents of the Hindu Law which are not inconsistent with the provisions of this Act.

Interpretation clause. **3.** In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agnate" means a relative connected by an unbroken line of male descent from a common ancestor, and includes a female related to an agnate by marriage ;

(*b*) "ancestor" includes three generations, male or female, in ascent from the same person ;

(*c*) "cognate" means a relative connected by a line of female links, and includes a female related to a cognate female links ; and includes a female related to a cognate by marriage ;

1. See the Mysore Adaptation of Laws Order, 1953.

(*d*) "full estate" means the sum total of the rights exercisable over any property, including the power of unfettered disposal *inter vivos* and by will;

(*e*) "Hindu" means a person governed by the Mitakshara School of Hindu Law;

(*f*) "issue" includes three generations, male or female, in descent from the same person;

(*g*) "last full owner" means the person in whom the full estate in any property was last vested at the time of his or her death;

(*h*) "limited estate" means any estate other than a full estate;

(*i*) "next reversioner" includes, where the next reversioner is a female, also the next male reversioner, and, where there are more reversioners than one, the whole body of reversioners next entitled to the reversion at any given time;

(*j*) "propositus" means the person whose relatives are to be reckoned;

(*k*) "relative" means a person connected either by blood, that is to say, through descent from a common ancestor, or by marriage with a person connected by blood.

PART I.

INHERITANCE.

Order of succession.

4. (1) The succession to a Hindu male dying intestate shall, in the first place, vest in the members of the family of the propositus mentioned below, and in the following order:—

(i) the male issue to the third generation;
(ii) the widow;
(iii) daughters;
(iv) daughters' sons;
(v) the mother;
(vi) the father;
(vii) widows of predeceased sons;
(viii) sons' daughters;
(ix) daughters' daughters;
(x) brothers of the whole blood;

(xi) brothers of the half blood ;
(xii) sons' sons' daughters, sons' daughters' sons, sons' daughters' daughters, daughters' sons' sons, daughters' sons' daughters, daughters' daughters' sons, and daughters' daughters' daughters ;
(xiii) widows of predeceased grandsons and great-grandsons.

(2) On failure of the family of the propositus, the succession shall pass to the family of the father of the propositus mentioned below, and in the following order :—

(i) brothers' male issue to the second generation ;
(ii) sisters ;
(iii) half sisters ;
(iv) sisters' sons ;
(v) half sisters' sons ;
(vi) the father's mother ;
(vii) the father's father ;
(viii) step-mothers ;
(ix) brothers' widows ;
(x) brothers' daughters ;
(xi) sisters' daughters ;
(xii) father's brothers of the whole blood ;
(xiii) father's brothers of the half blood ;
(xiv) brothers' sons' daughters, brothers' daughters' sons, brothers' daughters' daughters, sisters' sons' sons, sisters' sons' daughters, sisters' daughters' sons, and sisters' daughters' daughters ;
(xv) widows of brothers' male issue to the second generation.

(3) On failure of the family of the father of the propositus, the succession shall pass to the family of the paternal grandfather, and next thereafter to the family of the paternal great-grandfather, the members of each family ranking among themselves in the same relative order as the members corresponding to them in the family of the father.

(4) On failure of the families of paternal ancestors to the third degree as above, the succession shall pass to the maternal ancestors to the third degree and their respective

families, one after the other, and under the same rules *mutatis mutandis* as to relative order within each such family as are applicable to the families of the paternal ancestors.

(5) The members (where there are more than one) of each of the groups indicated above by Roman numerals and of the groups corresponding to them under sub-sections (3) and (4) shall among themselves, take simultaneously and in equal shares (*per capita*), provided that the male issue of the propositus shall take according to stock (*per stirpes*).

(6) Every reference to the son of a female relative in this section shall be read as excluding a son adopted after the death of such female relative.

Illustration.—A sister's son does not include a son adopted after the sister's death.

General rules as to order of preference.

5. Except as otherwise specially provided in the preceding section and in section 12, the order of preference among heirs shall be regulated by the following rules :—

Firstly, a nearer line shall exclude one more remote.

Explanation to Rule 1.—The descendants of the propositus constitute a nearer line than those of the father, the descendants of the father a nearer line than those of the grandfather, and so on, up to a limit of three degrees from and exclusive of the common ancestor in each case.

Secondly, within each line limited as aforesaid, agnates shall be preferred to cognates irrespective of degree.

Thirdly, among agnates and likewise among cognates, heirs nearer in degree to the propositus shall exclude those more remote ; but where the degrees are equal, a male shall be preferred to a female.

Explanation to Rule III.—Male issue up to three generations shall count as one degree for the purpose of this Rule.

Fourthly, in the absence of any ground of preference as herein provided, heirs of the same degree reckoned from the propositus shall take equally.

PART II.

Separate Property, Partition and Adoption.

Self-acquisitions deemed to be separate property.

6. (1) Property acquired by a member of a joint Hindu family by his own exertions, skill, learning or talents, or acquired in any other manner, without material and direct aid from property belonging to the joint family, shall be deemed to be the separate property of such member, notwithstanding that, at any time previous to, or at the time of his acquiring such property, such member may have been maintained or supported, or have received training or education of any kind (general, special, technical, or other), at the expense of the joint family or of any member thereof.

Separate property to pass by succession in case of intestacy.

(2) Such separate property of a person shall, in the event of his dying intestate, pass by succession to his own heirs, male or female.

Separation of interest by expression of intention.

7. (1) Where a member of a joint Hindu family not being a minor has, by conduct or by declaration, expressed clearly and unequivocally, and to the knowledge of the other members, his intention to separate himself from the family, he shall be deemed to have become divided in interest from such other members from the time of such expression of intention.

Separate share or interest to pass by succession in case of intestacy.

(2) The share or interest in joint family property of a member becoming divided in interest under sub-section (1) shall, in the event of his dying intestate, pass by succession to his own heirs, male or female, even though no actual division of property may have been made.

Certain females entitled to shares at partition.

8. (1) (*a*) At a partition of joint family property between a person and his son or sons, his mother, his unmarried daughters and the widows and unmarried daughters of his predeceased undivided sons and brothers who have left no male issue shall be entitled to share with them.

(*b*) At a partition of joint family property among brothers, their mother, their unmarried sisters and the widows and unmarried daughters of their predeceased undivided brothers who have left no male issue shall be entitled to share with them.

(*c*) Sub-sections (*a*) and (*b*) shall also apply *mutatis mutandis* to a partition among other co-parceners in a joint family.

(*d*) Where joint family property passes to a single co-parcener by survivorship, it shall so pass subject to the right to shares of the classes of females enumerated in the above sub-sections.

(2) Such share shall be fixed as follows :—

(*a*) in the case of the widow, one-half of what her husband, if he were alive, would receive as his share ;

(*b*) in the case of the mother, one-half of the share of a son if she has a son alive, and, in any other case, one-half of what her husband, if he were alive, would receive as his share ;

(*c*) in the case of every unmarried daughter or sister, one-fourth of the share of a brother if she has a brother alive, and, in any other case, one-fourth of what her father, if he were alive, would receive as his share : provided that the share to which a daughter or sister is entitled under this section shall be inclusive of, and not in addition to, the legitimate expenses of her marriage including a reasonable dowry or marriage portion.

(3) In this section, the term " widow " includes, where there are more widows than one of the same person all of them jointly, and the term " mother " includes a step-mother and, where there are both a mother and a step-mother, all of them jointly and the term " son " includes a step-son as also a grandson and a great grandson ; and the provisions of this section relating to the mother shall be applicable *mutatis mutandis* to the paternal grand-mother and great grandmother.

(4) Fractional shares of the females as fixed above shall relate to the share of the husband, son, father or brother as the case may be and their value shall be ascertained by treating one share as allotted to the male and assigning therefrom the proper fractional shares to the female relatives.

(5) Each of the female relatives referred to in sub-section (1) shall be entitled to have her share separated off and placed in her possession :

Provisos.

Provided always as follows :—

(i) No female relative shall be entitled to a share in property acquired by a person and referred to in section 6, so long as he is alive ;

(ii) No female whose husband or father is alive shall be entitled to demand a partition as against such husband or father, as the case may be ;

(iii) A female entitled to a share in any property in one capacity of relationship shall not be entitled to claim a further or additional share in the same property in any other capacity.

Illustration.—A and his son B effect a partition of their family property. A has a mother and two unmarried daughters. Their shares will be as follows.—

Father	.. ..	1
Son	.. ..	1
Mother	.. ..	$\frac{1}{2}$
Two daughters	.. ..	$\frac{1}{4}$ each

The property will be divided in the above proportion, the father getting 1/3, the son 1/3, the mother 1/6 and each daughter 1/12.

Authority to adopt.

9. (1) In the absence of an express prohibition in writing, by the husband, his widow, or, where he has left more widows than one, the seniormost of them shall be presumed to have his authority to make an adoption.

Effect of adoption.

(2) No adoption made by a widow shall—

(*a*) divest her of her estate in any *stridhana* property, other than such as she may have taken by inheritance from her husband ; or

(*b*) affect her right to obtain at any time, at her option, either maintenance charged upon the property inherited from her husband, or a separate share therein equal to one-half of the share of the adopted son ; or

(*c*) affect her right to manage such property, as well as to act as the guardian of the person of the adopted son, during his minority.

Validity of pre-adoption arrangements.

(3) An arrangement made prior to or at the time of an adoption as aforesaid, whereby the adopted son if he be a major, or his natural father or mother if he be a minor, agrees to his rights in or over the property of the adoptive

father being limited, curtailed, or postponed in the interests of the adoptive mother, shall be valid and binding on the adopted son.

PART III.

WOMEN'S FULL ESTATE.

What is "*stridhana*"

10. (1) "*Stridhana*" means property of every description belonging to a Hindu female, other than property in which she has, by law or under the terms of an instrument, only a limited estate.

(2) *Stridhana* includes :—

(*a*) all ornaments and apparel belonging to a female ;

(*b*) all gifts received by a female at any time (whether before, at or after her marriage) and from any person (whether her husband or other relative or a stranger);

(*c*) property acquired by a female by her own exertions, skill, learning or talents ;

(*d*) property acquired by a female by purchase, agreement, compromise, finding or adverse possession ;

(*e*) the income, and savings from income, of all property whatsoever vested in a female, whether absolutely or otherwise ;

(*f*) property obtained by a female as her share at a partition ; and

(*g*) property taken by inheritance by a female from another female and property taken by inheritance by a female from her husband or son, or from a male relative connected by blood except when there is a daughter or daughter's son of the propositus alive at the time the property is so inherited.

(3) All gifts and payments other than or in addition to, or in excess of, the customary presents of vessels, apparel and other articles of personal use made to a bride or bridegroom in connection with their marriage or to their parents or guardians or other persons or their behalf, by the bridegroom, bride, or their relatives or friends, shall be the *stridhana* of the bride.

(*Part III—Women's Full Estate*)

Nature of estate in *stridhana*.

11. (1) A female owning *stridhana* property shall have over it absolute and unrestricted powers both of enjoyment and of disposition *inter vivos* and by will, subject only to the general law relating to guardianship during minority.

(2) Except when acting as the lawful guardian of his wife, a husband shall have no right to or interest in any portion of his wife's *stridhana* during her life, nor shall he be entitled to control the exercise of any of her powers in relation thereto.

Succession to *stridhana*.

12. (1) The succession to *stridhana* property belonging to a Hindu female dying intestate shall be as follows :—

I. In the first instance, to her children and grand-children, if any, in the following order :—

(*i*) her children, male and female ;

(*ii*) her grand-children, male and female ;

Provided that in the case of *stridhana* property comprised in clauses (*a*) and (*b*) of sub-section (2) of section 10, the order shall be as follows :—

(*a*) daughters ;
(*b*) daughters of daughters ;
(*c*) sons of daughters ;
(*d*) sons ;
(*e*) sons and daughters of sons.

II. In the absence of children and grand-children, to—

(*iii*) the husband, if any, lawfully married to the said female ;

(*iv*) the husband's heirs in order of succession to him.

III. Failing the husband and his heirs, or if the said female was unmarried or not lawfully married, then to her own relatives in the following order :—

(*v*) uterine brothers and sisters ;
(*vi*) mother ;
(*vii*) father ;
(*viii*) father's heirs in order of succession to the father ;
(*ix*) mother's heirs in order of succession to the mother.

Explanation.—" Children " in this sub-section includes illegitimate as well as legitimate children and children born out of wedlock.

(2) The members (where there are more than one) of each group of heirs specified in sub-section (1) shall take simultaneously and in equal shares, provided that the descendants of the deceased female in the second generation shall take *per stirpes* and not *per capita.*

13. Any person, male or female, inheriting *stridhana* property shall take therein a full estate. Estate of heir to *stridhana* property.

14. A gift or bequest in favour of a female shall be construed in the same manner, and shall have the same effect in all respects, as a gift or bequest in favour of a male. Gifts and bequests to have same effect for females as for males.

15. Where property, immovable or movable, is bequeathed to a female, she shall be entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for her. Bequests without words of limitation.

PART IV.

Women's Limited Estate.

16. In property other than *stridhana* as defined in sections 12 and 13, a female shall take a limited estate. Nature of estate in property inherited from males.

Provided that it shall be competent to a female having only a limited estate in any property to acquire a full estate therein by obtaining from the next reversioner a release of his entire interest in such property in her favour. Proviso.

17. A female having only a limited estate in any property is nevertheless entitled— Rights of holder of limited estate.

(*a*) to the undisturbed possession of such property, and to absolute and unrestricted powers both of enjoyment and disposition *inter vivos* or by will over the income therefrom ;

(*b*) to manage the property at her unfettered discretion without being accountable to any one else for her acts done in the course of such management ; and

(*c*) to lease, mortgage or otherwise alienate the property for any period not extending beyond the termination of her limited estate ;

and shall be competent—

(*d*) fully and completely to represent the property, including reversionary and other interests therein, in suits and proceedings affecting the same.

Restrictions on powers of holder of limited estate.

18. (1) A female having only a limited estate in any property is not entitled—

(*a*) to alienate the property or any portion thereof for any period extending beyond the termination of her limited estate, except in cases where the alienation is made for a necessary purpose, or is assented to, ratified, or intentionally acquiesced in by the next reversioner ; or

(*b*) to waste or expend the *corpus* of the property, except where the property is movable and its consumption is necessitated by the insufficiency of the income available for her maintenance.

"Necessary purpose."

(2) "Necessary purpose" in this section means any purpose which is for the benefit of the property or is proper or incidental to the position in life and society of the female owner concerned.

Illustrations.—(*a*) The reasonable personal requirements of the female owner, and the reasonable requirements of her children in respect of their upbringing, education, marriage and settlement in life, are necessary purposes.

(*b*) The reasonable expenses for the furtherance of the spiritual benefit of herself and her husband, customary gifts on ceremonial occasions, and reasonable acts of charity, are necessary purposes.

Surrender or relinquishment by holder of limited estate.

19. A surrender or relinquishment by a female having a limited estate in any property in favour of the next reversioner is not invalid or ineffective merely because it

does not extend to the whole of the property comprised in the limited estate, or because the transaction provides for or contemplates some benefit to such female owner in addition to maintenance, or any other return or consideration :

Provided that no such surrender or relinquishment shall affect any alienation of property made by her prior thereto.

Investments.

20. All unappropriated income of any property in which a female has only a limited estate, and all purchases and investments made by her out of the income of such property, unless clearly intended to be an accretion to such property, shall be deemed to be her *stridhana*.

Succession on termination of limited estate.

21. On the termination of the limited estate of a female owner, the property comprised in such estate shall pass to the person who at the time is the next heir of the last full owner.

PART V.

MAINTENANCE.

Females entitled to maintenance.

22. (1) In addition to any others legally entitled to maintenance, a Hindu male, provided he is possessed of sufficient means, shall be bound to maintain the following female relatives ; namely :—

(*a*) his step-mother ; and

(*b*) his unmarried full sister until she attains majority.

(2) Every person, male or female, who inherits the property of a Hindu male shall, to the extent of the property inherited, be bound to maintain the female relatives entitled to maintenance from such Hindu.

(3) The manager of a joint Hindu family shall, to the extent of the property of the joint family in his possession or control, be bound to maintain the female relatives of every member thereof entitled to maintenance from such member :

Proviso.

Provided that no female relative who is entitled to a share under section 8 and who has obtained such share shall be entitled to claim maintenance.

Wife when entitled to separate maintenance.

23. A wife is entitled to refuse to live with her husband and to claim separate maintenance, in any of the following cases, namely :—

(*a*) when he is suffering from any venereal or loathsome disease ;

(*b*) when he keeps a concubine in his house ;

(*c*) when he marries a second wife ;

(*d*) when he habitually treats his wife with such cruelty or harshness as to endanger her health or personal safety ; or with such gross neglect as to make her life with him miserable ;

(*e*) when he renounces the Hindu religion.

Right to maintenance unconditional.

24. The legal right of a widow or other female to maintenance shall not be curtailed by any act to which she is not a free and consenting party, and shall not be affected by non-compliance with conditions or directions, if any, imposed or made by her husband or any other person.

Amount of maintenance.

25. (1) In determining the amount of maintenance to which a female is entitled, regard shall be had :

firstly, to the means of the person, if any, liable to the claim, and, in cases where the claim is limited to the extent of property available, to the value of such property from the point of view of income ;

secondly, to the claims of other persons, if any, entitled to maintenance as against the same person or out of the same property ;

thirdly, to the position in life of the female, and that of her parents if she be unmarried, or of her husband if she be married or is a widow ; and

fourthly, to the reasonable wants of the female.

(2) Regard shall also be had to any independent and assured means of support possessed by the female, pro-

vided such means are derived from property of a productive character, or from sources not dependent on the will of a third person.

Illustration.—Jewels, vessels, furniture and apparel, since they are not property of a productive character, are not to be taken into account.

"Reasonable wants."

(3) The expression "reasonable wants" in this section includes, not only the ordinary expenses of living, such as food, raiment and residence, but also provision for such religious and educational requirements as are incidental to the station in life of the female entitled to maintenance.

Variations in amount of maintenance.

(4) The amount of maintenance once fixed shall not be varied to the prejudice of the female concerned, unless such variation is just and necessary owing to a substantial change in any of the circumstances referred to in sub-sections (1) and (2).

Maintenance when a charge.

26. (1) A right to maintenance under section 22 shall from the moment—

(*a*) when such right is decreed by a court of law,

(*b*) when such right is reduced to writing by the parties concerned, such writing being registered under the Mysore Registration Act, 1903, and

(*c*) when a claim is definitely made in writing, such writing being registered under the Mysore Registration Act, 1903;

be deemed to be a charge upon the whole extent of the property liable to meet the claim under sub-section (2) or sub-section (3) of that section, as the case may be, and shall have priority over all alienations of such property made subsequent thereto other than an alienation made in good faith for legal necessity by the manager of a joint Hindu family.

(2) A wife's right to maintenance under section 25 shall, from the moment when a claim is definitely made in writing, such writing being registered under the Mysore Registration Act, 1903, be deemed to be a charge upon all property and interest in property possessed by the

husband, and shall have priority over all his personal debts, and over all subsequent alienations of such property or interest, other than an alienation for valuable consideration made in good faith for a necessary or reasonable purpose and without intent to defeat the right.

(3) Nothing in this section shall—

(*a*) preclude the parties concerned by agreement, or a Court by decree in a suit to which the person entitled to maintenance is a party, from confining the charge in respect of the right to maintenance to a specific portion of the property liable ; or

(*b*) preclude any person who has obtained for consideration, and without notice of an intention to defeat the right to maintenance, any property or interest in property liable to the claim, from requiring that the claim shall, in the first instance, be satisfied out of any portion of the said property or interest in property that may not have been alienated to him, so far as such portion will extend, before proceeding against the portion alienated.

THE SUPPRESSION OF IMMORAL TRAFFIC ACT, 1933.

ARRANGEMENT OF SECTIONS.

SECTIONS.

1. Short title.

2. Definitions.

3. Solicitation.

4. Procuration.

5. Importing woman or girl for prostitution.

6. Removal of minor girl from brothel.

7. Commitment to suitable custody.

8. Intermediate custody of the girl removed from brothel, etc.

9. Guardianship while in custody.

10. Detention for prostitution in brothel.

11. Punishment for keeping a brothel or allowing premises to be used as a brothel.

12. Arrest without warrant.

13. Power to enter premises.

14. Offences triable by certain Magistrates only.

15. Power to make rules.

MYSORE ACT No. VIII OF 1936.

THE SUPPRESSION OF IMMORAL TRAFFIC ACT, 1936.

(Received the assent of His Highness the Maharaja on the Fourteenth day of July 1936.)

An Act for the Suppression of Brothels and Immoral Traffic in the [1][State of Mysore except Bellary District.]

WHEREAS it is expedient to make provision for the suppression of brothels and immoral traffic in the [1][State of Mysore except Bellary District]; it is hereby enacted as follows :—

Short title.

1. (*a*) This Act may be called the Suppression of Immoral Traffic Act of 1936.

(*b*) The Government may from time to time, by notification in the official Gazette apply all or any of the provisions of this Act to the whole or any portion of the [1][State of Mysore except Bellary District] from such date as may be specified in the notification and may cancel or modify any such notification :

Provided that sections 6, 7 and 8 shall not be so applied to any area unless the Government are satisfied that there are sufficient number of rescue homes in that area.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

'Brothel' means any house, room, or place, or any part thereof which the occupier or person in charge thereof habitually allows to be used by any other person for the purposes of prostitution.

'Prostitution' means promiscuous sexual intercourse for hire.

'Magistrate' means a Stipendiary Magistrate of the First Class.

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1. See the Mysore Adaptation of Laws Order, 1953.

'Prescribed' means prescribed by rules made under this Act.

Solicitation.

3. Whoever—

(1) in any street or public place, solicits any person for the purpose of prostitution, in such manner as to cause obstruction, annoyance or danger to the residents or passengers or to offend against public decency, or

(2) frequents such street or public place, for the purpose of prostitution or of solicitation so as to constitute a nuisance, or to offend against public decency,

shall be punished with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees or with both.

Procuration.

4. Any person who induces a woman or girl to go from any place with intent that she may, for the purposes of prostitution, become the inmate of or frequent a brothel, shall be punished with imprisonment which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Importing woman or girl for prostitution.

5. Any person who takes or attempts to take or causes to be taken from one place to another any woman or girl with a view to her carrying on or being brought up to carry on the business of prostitution or causes or induces any woman or girl to carry on the business of prostitution, shall be punished with imprisonment which may extend to two years or with fine which may extend to five hundred rupees or with both.

Removal of minor girl from brothel.

6. Where a Magistrate has reason to believe from a report made to him by a police officer, or otherwise, that a girl apparently under the age of 18 years is living, or is carrying on or is being made to carry on the business of prostitution in a brothel, disorderly house or place of assignation, he may issue an order to a police officer not below the rank of an Inspector specially authorised in writing in this behalf by the Superintendent of Police, to enter into such brothel, disorderly house or place of assignation, and to remove therefrom such girl ; and thereupon such police officer shall have the power to enter

into such brothel, disorderly house or place of assignation, and shall be entitled to remove such girl forthwith from such brothel, disorderly house or place of assignation.

Commitment to suitable custody.

7. A girl who has been removed under section 6 shall be brought before a magistrate having local jurisdiction and such magistrate shall make such inquiry as he thinks fit and if satisfied that the girl is under the age of 18 years, he may make an order that such girl be placed, until she attains the age of 21 years or for any shorter period, under such conditions as may be prescribed, in a rescue home provided or aided or recognised by the Government or in such other custody as the Court, for reasons to be stated in writing, shall consider suitable, provided that such custody shall not be that of a person other than a relative of the girl or of a body of a different religious persuasion from that of the girl.

Intermediate custody of the girl removed from brothel, etc.

8. When a girl has been removed from a brothel or disorderly house or place of assignation under the provisions of section 6, the police officer carrying out the removal shall, until such girl can be brought before a magistrate, cause her to be detained in a rescue home provided, aided or recognised by the Government or in such other suitable custody (other than a police station or jail) as may be prescribed in this behalf by the Government, provided however, that such custody shall not be that of a person or a body of a different religious persuasion from that of the girl.

Guardianship while in custody.

9. Notwithstanding anything contained in any other law, any person to whose custody a girl is committed by an order made under section 7 shall, while the order is in force, have the like control over the girl as if he were her parent and shall be responsible for her maintenance and protection and the girl shall continue in his custody notwithstanding that she is claimed by her parent, or any other person.

Detention for prostitution in brothel.

10. Any person who detains any woman or girl against her will in a brothel for purposes of prostitution, shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Punishment for keeping a brothel or allowing premises to be used as a brothel.

11. (1) Any person who keeps or manages or acts or assists in the management of, a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any person who,

(*a*) being the tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or

(*b*) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, to any person convicted under sub-section (1) or clause (*a*) of this sub-section with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the use of such premises, or any part thereof, as a brothel;

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both.

(3) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which the lessee, tenant or occupier thereof has been convicted under clause (*a*) of sub-section (2) shall be entitled forthwith to determine such lease, tenancy or occupation.

Arrest without warrant.

12. Any police officer (not below the rank of an Inspector) on complaint, and any police officer authorised in this behalf by the District Superintendent of Police by special order, may arrest without a warrant any person committing in his view any offences punishable under sections 3, 4, 5 and 10 if the name and address of such person be unknown to such police officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.

Power to enter premises.

13. Notwithstanding anything contained in any other law for the time being in force, only a police officer authorized in this behalf by the District Superintendent of Police may, for the purposes of ascertaining whether an offence punishable under sections 3, 4, 5 or 10 has been or

is being committed, enter without a warrant any premises in which he has reason to believe that any woman or girl is living in respect of whom an offence punishable under sections 3, 4, 5 or 10 has been committed.

Offences triable by certain Magistrates only.

14. No court inferior to that of a Stipendiary Magistrate of the first class shall try offences under sections 3, 4, 5, 10 and 11.

Power to make rules.

15. The Government may make rules generally for carrying into effect the provisions of this Act and in particular :

(*a*) for the care, treatment, instruction and the maintenance of girls placed in a rescue home or homes or other suitable custody under section 7 ;

(*b*) for the detention of girls under the provisions of section 8.

THE MYSORE MATERNITY BENEFIT ACT, 1937.

ARRANGEMENT OF SECTIONS.

1. Short title.

2. Extent and operation.

3. Definitions.

4. Employment of or work by women in factories prohibited during certain period.

5. Right to payment of maternity benefit.

6. Procedure regarding payment of maternity benefit.

7. Payment of maternity benefit in case of a woman's death.

8. No notice of dismissal to be given to a woman during period of maternity benefit.

9. Forfeiture of maternity benefit.

10. Penalty for contravention of the Act by an employer.

11. Penalty for contravention of the Act by a woman.

12. Cognizance of offences.

13. Limitation of prosecution.

13-A. Power to extend this Act to Mines.

14. Rules.

15. Copies of Act and rules thereunder to be exhibited.

MYSORE ACT No. III OF 1937.

THE MYSORE MATERNITY BENEFIT ACT, 1937.

(AS AMENDED BY ACTS No. XXXI OF 1942, XXXII OF 1952 AND 23 OF 1954.)

(Received the assent of His Highness the Maharaja on the fourth day of February 1937.)

An Act to regulate the Employment of women in factories sometime before and sometime after confinement and to provide for the payment of Maternity Benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories sometime before and sometime after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Maternity Benefit Act, 1937.

Extent and operation.

2. [1][(1) It extends to the whole of the State of Mysore.]

(2) It shall come into operation on the first day of April 1937.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Employer" includes an occupier of a factory as defined in the [1][Factories Act, 1948, (Central Act LXIII of 1948)], and the manager of a factory.

(*b*) The expressions "factory," "Inspector of Factories" and "Worker" shall have the same meanings as are respectively assigned to them under the [1][Factories Act, 1948, (Central Act LXIII of 1948).]

(*c*) "Maternity benefit" means the amount of money payable under the provisions of this Act to a woman worker in a factory.

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1. Substituted by Act 23 of 1954.

(*d*) "Wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does not include a bonus given for regular attendance, or any deduction or payment made on account of fines.

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation,

(1) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery ; and

(2) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (1) Subject to the provisions of this Act every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (1) of section 6 or at the rate of eight annas a day, [1][whichever is more,] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2) :

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than nine months immediately preceding the date on which she gives notice under sub-section (1) of section 6.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be eight weeks, that is to say, four weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (1) Any woman employed in a factory and entitled to maternity benefit under the provisions of this

1. Substituted by Act XXXII of 1952.

Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she receives maternity benefit.

(2) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

(3) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely :—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (2) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child ; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child ; and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (2) of section 5—punctually four weeks after the production of such certified extract from a birth register ; or

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (2) of section 5—within forty-eight hours of the production, within six weeks of her delivery, of a certified extract from a birth register stating that she has given birth to a child :

Provided that no woman shall be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of a certified

extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due, if the newly-born child survives her, to the person who undertakes the care of the child and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman worker within a period of three months before her confinement shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would on or before the date of her confinement have become, entitled under this Act.

(*b*) If any question arises as to whether any notice of dismissal given under clause (*a*) was or was not given for sufficient cause, it shall be referred to the Inspector of Factories whose decision shall be final.

(*c*) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery, she shall be liable, on conviction, to a fine not exceeding ten rupees.

Cognizance of offences.

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Inspector of Factories.

(2) No court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecution.

13. No court shall take cognizance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

[1]**13-A.** [1][* * *]

Rules.

14. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(*a*) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under [2][section 62 of the Factories Act, 1948 (Central Act LXIII of 1948).]

(*b*) the inspection of factories for the purposes of this Act by Inspectors of Factories;

(*c*) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act;

(*d*) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(*e*) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the Government, necessary.

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1. Repealed by the Part B States (Laws) Act, 1951, (Central Act No. III of 1951.)
2. Substituted by Act 23 of 1954.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

Copies of Act and rules thereunder to be exhibited.

15. An abstract of the provisions of this Act and the rules thereunder in the vernacular of the workers shall be exhibited in a conspicuous manner by the employer in every part of a factory in which women are employed.

MYSORE ACT No. VI OF 1937.

THE MYSORE DEBT CONCILIATION ACT, 1937

(AS AMENDED BY ACTS XXVII OF 1942 AND VII OF 1951.)

(Received the assent of His Highness the Maharaja, on the fourth day of February 1937.)

An Act to make provision for the setting up of Debt Conciliation Boards in [1][the State of Mysore except Bellary District] to relieve Agriculturists from Indebtedness.

Preamble. Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors ; It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Mysore Debt Conciliation Act, 1937.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force in such areas and on such dates as the Government may, by notification in the official Gazette, direct.

Definitions. 2. In this Act unless there is anything repugnant in the subject or context :

(*a*) the expression " holder," " holding," " tenant," and " village " shall have the meaning assigned to them in the Mysore Land Revenue Code, 1888 ;

(*b*) " agriculture " includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of live-stock, poultry or bees, sericulture and the growing of fruits, vegetables and the like :

(*c*) " board " means a Debt Conciliation Board established under sub-section (1) of section 3 ;

(*d*) " creditor " means a person to whom a debt is owing and includes a co-operative society ;

(*e*) " debt " includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not, but shall not include arrears of

1. See the Mysore Adaptation of Laws Order, 1953.

wages, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Mysore Land Revenue Code, 1888, [1][or any liability in respect of maintenance, whether under decree of Court or otherwise, or any money for the recovery of which a suit is barred by limitation ;

(*f*) " debtor " means a person—

(i) who earns his livelihood mainly by agriculture or who is a holder, whether he cultivates the land personally or otherwise ; and

(ii) whose debts exceed one hundred rupees.

(*g*) " prescribed " means prescribed by rules made under this Act ;

(*h*) " secured debt " includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise ;

(*i*) " secured creditor " means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

Establishment of Debt Conciliation Boards.

3. (1) The Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a Chairman and two members appointed by the Government which may, for reasons to be recorded in writing, cancel any appointment or dissolve any board.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

[2][(4) A Board having the prescribed quorum may act notwithstanding any vacancy through death, resignation or removal in the number of its members other than the Chairman.]

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1. Added by Act XXVII of 1942.

2. Inserted by Act XXVII of 1942.

[1](5) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the Chairman shall have a casting vote.

[1](6) When a board is dissolved or otherwise ceases to exist, the Government may, at any time establish another board for the area for which the former board was established and may declare the board newly established to be the successor in office of the board which has ceased to exist and such board shall exercise all the powers under the Act.

Application for settlement between debtor and his creditors.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area, to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Act, be transferred to and dealt with by one board as one single application.

Application for settlement of joint debts.

[2][**4-A.** If a debtor is jointly liable with other persons for a debt, he may make an application under sub-section (1) of section 4 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case may pass such orders as it thinks fit regarding the debt so far as such applicant is concerned and such orders of the Board shall not be questioned in any Civil Court:

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor, to whom the debt is due, be

1. Sub-sections (4) and (5) of section 3 renumbered as sub-sections (5) and (6) respectively, by Act XXVII of 1942.
2. Inserted by Act XXVII of 1942.

entitled to realise more than his dues from the persons jointly liable.]

5. Every application to a board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying plaints. Verification of application.

6. (1) Every application made by a debtor to a board shall contain the following particulars, namely :— Particulars to be stated in application.

(*a*) a statement that the debtor is unable to pay his debts ;

(*b*) the place where he resides ;

(*c*) the amount and particulars of all claims against him together with the names and residences of his creditors and, in the case of a creditor who is a minor or a lunatic, the name of his guardian or the person in whose charge the property of such creditor is, so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him ; and

(*d*) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, namely :—

(*a*) the place where the debtor resides ; and

(*b*) the amount and particulars of his claim against

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6. Rejection of application.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

8. (1) On receipt of an application under section 4, the board shall unless it rejects the application under section 7 pass on order fixing a date and place for hearing the application. Procedure on application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall on his appearance, furnish the particlars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

Dismissal of application.

9. [1](1) An application under section 4 may be dismissed by the board at any stage of the proceedings :

(*a*) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of debts ; or

(*b*) if, in the opinion of the board, the applicant fails to pursue his application with due diligence :

Provided that, when such applicant is a creditor, the board instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act, or

[2][Provided further that if the Board dismisses such application on the failure of the debtor to furnish the particulars required under sub-section (3) of section 8, the Board may allow against the debtor such costs as it considers reasonable.]

(*c*) if the application includes a claim which in the opinion of the board, is collusive and intended to defraud any creditor.

[3][(2) The Board shall dismiss the application made under sub-section (1) of section 4 if it is satisfied that the debtor has within two years previous to the date of the first application made by him transferred any of his property with intent to defraud, or to give fraudulent preference to, any creditor.]

Notice calling upon creditors to submit statements of debts.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed,

1. Section 9, renumbered as sub-section (1) of section 9 by Act XXVII of 1942.
2. Added by Act XXVII of 1942.
3. Inserted by Act XXVII of 1942.

calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1911, for signing and verifying claims and shall be submitted to the board within two months from the date of service or publication of the notice as the case may be :

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged :

Provided that, if a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section :

Provided further, that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

Procedure on submission of statement of debts.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish along with such statement full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as

required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt :

Provided that, the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Power of board to decide dispute as to the existence or amount of assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board :

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

Power of board to require attendance of persons and production of documents.

13. (1) Subject to rules made under this Act, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1911.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect.

14. (1) If the creditors to whom more than 50 per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which, they are to be paid. Such agreement, if considered equitable by the board, shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement :

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies in Mysore :

[1] * * *

[2][(2) Where an agreement is recorded under sub-section (1) and the Board considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement as a fair offer which the creditor concerned ought reasonably to accept, it may pass an order that the debt to which the offer relates shall be settled in accordance with such offer :

Provided that for the purposes of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description :

Provided further that a refusal by a secured creditor of an offer made by the debtor shall not be considered unreasonable if the offer involves any reduction of the principal.]

[3][(3) An agreement made under sub-section (1) [2][or an order passed under sub-section (2)] shall within thirty days from the date of the making thereof, be registered under the Mysore Registration Act, 1903, by the Chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court, and be executable as such.

[4][*(3) (*a*) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for the Chairman or any member of the Board or any party who has signed or otherwise authenticated the agreement referred to in sub-section (1), or the order made under sub-section (2) to appear in person or by agent at any registration office in any proceeding connected with the registration of such agreement, or to sign as provided in section 58 of that Act.

1. Second proviso to section 14 (1) omitted by Act XXVII of 1942.
2. Inserted by Act XXVII of 1942.
3. Sub-sections (2), (3) and (4) of section 14. renumbered as sub-sections (3), (4) and (5) by Act XXVII of 1942.
4. Substituted for sub-section (4) as renumbered by Act XXVII of 1942.
* Sic. should be (4.)

(*b*) The registering officer to whom any such agreement is sent for registration may, if he thinks fit, refer to the Chairman of the Board or to any other person for information respecting the same, and on being satisfied of the execution thereof, shall register the agreement.]

(5) If after the making of an agreement under sub-section (1), any debt is revived by the board or civil court under sub-section (2) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled ; the application under section 4 shall be deemed to have been received in the office of the board on the date of such revival ; and all the provisions of the Act, shall apply in respect of the application accordingly.

[1][(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2), such refusal is not considered unfair by the Board when passing an order, such settlement or order shall limit his rights to proceed against the secured property only.]

[1][**14-A.** When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt.]

Properties exempt from attachment not to be taken into account.

15. In any scheme of debt conciliation under this Act, such properties as are exempt from attachment under the Code of Civil Procedure, 1911, shall not be taken into account and shall be left to the judgment-debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred

1. Inserted by Act XXVII of 1942.

before the first day of June 1935, twice the amount due on the said date.

Power of board to dismiss application.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within 12 months from the date of the application under section 4, the board shall dismiss the application.

Recovery of sums due under agreement.

[1][**18.** (1) If a debtor defaults in paying any amount awarded as costs under the second proviso to clause (b) of sub-section (1) of section 9, or any amount due in accordance with the terms of an agreement registered under sub-section (3) of section 14, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made to the Deputy Commissioner within ninety days from the date of default accompanied by a certificate from the Board regarding the amount due.]

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

Power to deposit amount of instalment with the Deputy Commissioner.

[2][**18-A.** (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

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1. Substituted by Act XXVII of 1942.
2. Sections 18-A to 18-D inserted by Act XXVII of 1942.

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person, who, he has reason to believe, claims or is entitled to it, and may pay the amount thereof to any person appearing to him to be entitled to it subject to the taking of proper security where claimants are under any legal disability and shall, in all doubtful claims, retain it pending the decision of a Civil Court as to the person entitled to it.

Debtor to be deemed to have fulfilled terms of agreement.

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Bar of suits and other legal proceedings.

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.]

Grant of certificate by board in respect of certain debts.

19. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The board, in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce, in the locality ;

(ii) the amount of consideration actually received ;

(iii) the reasonableness of the rates of interest ;

(iv) the onerous condition, if any, subject to which the loan was granted ;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; [1]

(vi) any other particulars which the board thinks it desirable to take into account; [2][and

(vii) the repaying capacity of the debtor.]

Power of court to disallow cost or interest.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suit after registration of agreement not to be executed.

(3) Where after the registration of an agreement under [3][sub-section (3) of section 14,] any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1), or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1911, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

Bar of Civil Suits.

20. No civil court shall entertain—

(*a*) any suit in respect of—

(i) any matter pending before a board; or

(ii) the validity of any procedure or the legality of any agreement made under this Act; or

(iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debtor was party to such agreement whether such agreement is subsisting or not; or

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1. The words "and" omitted by Act XXVII of 1942.
2. Added by Act XXVII of 1942.
3. Substituted by Act XXVII of 1942.

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 10 except a debt which is revived under the proviso to that sub-section ;

(*b*) any application to execute a decree the execution of which is suspended under sub-section (3) of section 19.

Avoidance of certain transfers of debtor's property.

21. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Mysore Insolvency Act, 1925 nor shall such alienation be voidable under section 53 of the Transfer of Property Act, 1918.

Bar of appeal or revision.

23. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

24. A board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit;

Provided that, no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before board by agent or by legal practitioner.

25. In any proceedings before a board, any party may appear in person or by an agent authorized in writing or, with the permission of the board, by a legal practitioner.

Suspension of pending application or suit.

26. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the board has dismissed the application.

[1][Provided that such application is made,

(i) in the case of a suit, within three months after the date of service of summons on the defendant, or within three months from the date of commencement of the Mysore Debt Conciliation (Amendment) Act, 1951, whichever is later; and

(ii) in the case of any other proceeding, within three months from the date of commencement of the Mysore Debt Conciliation (Amendment) Act, 1951.

Explanation.—A defendant shall be deemed to have been served with summons,

(i) on the date on which summons is served, or

(ii) on the date on which he takes notice of suit and enters appearance, or

(iii) on the date on which he files an application to set aside an *ex parte* decree.]

Submission of reports by boards regarding sums due to Government.

27. Where in the course of an inquiry into an application made under section 4, a board finds that there is any sum owing to Government on account of loans advanced under the Land Improvement Loans Act, 1890, or otherwise, the board shall report this fact through the Deputy Commissioner to the Revenue Commissioner in Mysore.

Computation of period of limitation for suits and proceedings.

28. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1911, or under the Mysore Limitation Act, 1911.

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1. Added by Act VII of 1951.

Members of board deemed to be public servants.

29. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code as in force in Mysore.

Power to make rules.

30. In addition to any power specially conferred by this Act, the Government may make rules not inconsistent with this Act—

(*a*) prescribing the quorum for, and regulating the procedure before a board ;

(*b*) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 10 ;

(*c*) prescribing the charges to be made by a board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;

(*d*) prescribing the records to be kept and the returns to be made by a board ;

(*e*) prescribing the allowances, if any to be paid to the chairman and members of a board ;

(*f*) regulating the power of a board to summon parties and witnesses under section 13 and the grant of expenses to witnesses ;

(*g*) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14 ;

(*h*) prescribing the form of certificate to be granted under sub-section (2) of section 18 or sub-section (1) of section 19 ; and

(*i*) generally, for the purpose of carrying into effect the provisions of this Act.

General provisions regarding rules.

31. (1) All rules made by Government under section 30 shall be subject to the condition of previous publication.

(2) In making any rule, Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one, with further fine which may extend to ten rupees for every day during which the breach continues after the first breach.

MYSORE ACT No. V OF 1938.

THE HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT, 1938.

(Received the assent of His Highness the Maharaja on the third day of February 1938.)

An Act to Amend the Hindu Law.

Whereas it is expedient to amend the Hindu Law relating to exclusion of certain classes of heirs from inheritance ; It is hereby enacted as follows :—

1. (1) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1938. Short title.

(2) It extends to the [1][whole of the State of Mysore except Bellary District]. Extent.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity or physical or mental defect. Persons not to be excluded from inheritance or rights in joint family property.

3. Nothing herein contained shall affect any right which has accrued or any liability which has been incurred before the commencement of this Act, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed. Saving and exception.

1. See the Mysore Adaptation of Laws Order, 1958.

MYSORE ACT No. X OF 1938.

THE MYSORE GOVERNMENT SAVINGS CERTIFICATES ACT, 1938.

(AS AMENDED BY ACT 7 OF 1953.)

(Received the assent of His Highness the Maharaja on the fourth day of July 1938.)

An Act to restrict the transfer of Mysore Government Savings Certificates and to provide for the payment of Certificates standing in the name of deceased persons.

Whereas it is expedient to restrict the transfer of Mysore Government Savings Certificates and to provide for the payment of Certificates standing in the name of deceased persons; it is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Government Savings Certificates Act, 1938.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

(3) It will come into force at once.

Prohibition of transfer of Mysore Government Savings Certificates without the consent of the Treasury Officers.

2. (1) Notwithstanding any provision in any enactment or any rule of law for the time being in force to the contrary, no transfer of a Mysore Government Savings Certificate shall be valid without the previous consent in writing of the officer in charge of the treasury in whose books it is for the time being registered.

(2) In this connection " transfer " means a transfer *inter vivos* and does not include a transfer by operation of law.

Payment on death of holder of Mysore Government Savings Certificates.

3. (1) If a person dies and is at the time of his death the holder of a Mysore Government Savings Certificate, payment of the sum for the time being due on such Certificate may be made in the manner provided in the Savings Banks Act V of 1873 for the payment of deposits belonging to the estates of deceased persons, and the

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1. See the Mysore Adaptation of Laws Order, 1958.

provisions of sections 4 to 9 of the said Act shall apply accordingly as if the holder of such Certificate were a depositor in a Government Savings Bank and the sum for the time being due on such Certificate were a deposit in such a Bank :

Provided that the powers conferred by the said provisions on the Secretary of a Government Savings Bank shall be exercisable by the [1][Deputy Commissioner] :

Provided further that, where in any one case payment is to be made of Certificates issued from more treasuries than one, the said powers shall be exercisable by the [1][Deputy Commissioner.]

(2) Nothing in sub-section (1) shall be deemed to require any person to accept payment of the amount due on a Mysore Government Savings Certificate before the same has reached maturity.

4. (1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872, as in force in Mysore, when a Government Savings Certificate is payable to two or more persons jointly and either or any of them dies, the Certificate shall be payable to the survivor or survivors of those persons and when all the joint holders are dead, it shall be payable to the registered nominee, and in the absence of nomination, to the representative of the last surviving joint holder in accordance with the provisions contained in section 3.

(2) This section shall apply whether such death occurred or occurs before or after this Act comes into force.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or suvivors under or in respect of any certificate to which sub-section (1) applies.

1. Substituted by Act 7 of 1953.

MYSORE ACT No. XII OF 1938.*

THE MYSORE HINDU WIDOWS RE-MARRIAGE ACT, 1938.

(Received the assent of His Highness the Maharaja on the seventh day of July 1938.)

An Act to remove all legal obstacles to the marriage of Hindu Widows in the [1] [State of Mysore except Bellary District].

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of public welfare and whereas it is just to hold offsprings of such marriages as legitimate; it is hereby enacted as follows:—

Short title, extent and commencement.

1. (*i*) The Act may be called "The Mysore Hindu Widows Re-marriage Act, 1938."

(*ii*) It shall extend to the [1][whole of the State of Mysore except Bellary District].

(*iii*) It shall come into operation at the expiration of one month from the date of its publication in the official Gazette.

Marriage of Hindu Widows legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the

1. See the Mysore Adaptation of Laws Order, 1958.

ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to re-marriage of minor widow.

4. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this section.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine not exceeding five hundred rupees or to both.

Effect of such marriage.

Proviso.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law :

Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Savings of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled ; and every widow who has re-married shall have the same rights of inheritance as she would have had had such marriage been her first marriage.

Rights of widow in deceased husband's property to cease on her re-marriage.

6. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardian of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother ; and in making such appointment the Court shall be guided, so far as may be, by the laws and the rules in force touching the guardianship of children who have neither father nor mother :

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

MYSORE ACT No. VI OF 1939.

THE MYSORE CIGARETTE-TOBACCO SAFEGUARDING ACT, 1939.

(Received the assent of His Highness the Maharaja on the seventh day of February 1938.)

An Act to provide for the development of Cigarette-tobacco cultivation and for safeguarding the interests of Cigarette-tobacco cultivators in the [1][State of Mysore except Bellary District.]

Whereas it is expedient, for the fostering and development of Cigarette-tobacco cultivation in the [1][State of Mysore except Bellary District,] to take power for controlling and regulating the quality of the seed supply and the curing and marketing of Cigarette-tobacco in the State and for safeguarding the interests of tobacco cultivators ; It is hereby enacted as follows :—

1. This Act shall be called the Mysore Cigarette-tobacco Safeguarding Act, 1939. Short title.

2. (1) It extends to the [1][whole of the State of Mysore except Bellary District]. Extent and commencement.

(2) It shall come into operation from such date as the Government may, by notification in the official Gazette, direct.

3. In this Act, unless there is anything repugnant in the subject or context :— Definitions.

(*a*) "Cigarette-tobacco" shall include the following varieties, namely, Harrison Special, Cash, Adcock, Burley and all other flue-cured varieties of tobacco used for the manufacture of cigarettes ;

(*b*) "Barn" means any structure in which green tobacco leaf is cured by heat radiating from flue-pipes or tubes connected with an oven or a plant generating steam or electricity ;

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1. See the Mysore Adaptation of Laws Order, 1953.

(*c*) "Seed-bed" means earthen beds in which tobacco seed is sown and seedlings raised;

(*d*) "Licence" means a licence granted under this Act and 'Licensed' and 'Licensee' shall have corresponding meanings;

(*e*) "Prescribed" means prescribed by rules made under this Act.

License for seed-beds and barns.

4. (1) It shall be lawful for the Government to grant to any person or persons on such conditions and for such periods as may seem fit, licences for raising seed-beds for supply of seedlings to growers and for the construction of barns for curing Cigarette-tobacco.

(2) Such conditions in regard to seed-beds may specify the source from which the seed shall be obtained, the places where seed-beds are to be located, the area of the seed-bed, the maximum price at which seedlings shall be sold to growers, the preventive measures to be taken against insect pests and plant diseases and other matters relating to the proper preparation of seedlings.

(3) Such conditions in regard to the construction of barns by growers to cure tobacco grown by them may specify the localities and places where they are to be constructed, the kind of material to be used, the dimensions and design of the barns, the oven, and flue-pipes and chimneys.

(4) Where such barns are proposed to be constructed by curers for curing tobacco grown by cultivators, such conditions may also prescribe and limit the zones within which they may take up the curing of tobacco grown by cultivators and the distance to be observed from the nearest existing barn and also the extent of tobacco area corresponding to a barn. Such conditions may further prescribe that the owners of such barns shall undertake to purchase all the green tobacco leaf grown in the zone allotted to their barns at not less than the minimum price fixed by the Government in this behalf, suitable agreements being entered into by them in writing with the growers before transplantation of seedlings.

No seed-bed to be raised or barn constructed without a license.

5. It shall not be lawful for any person after the expiration of three months from the coming into force of this Act to carry on the business of raising seed-beds or the construction of barns for curing Cigarette-tobacco except under the authority and subject to the terms and

conditions of a licence granted in accordance with the provisions of this Act.

Decision of Government to be final.

6. The decision of the Government as to whether a licence may or may not be granted shall be final.

Information to be furnished.

7. The Government may by special or general order require the applicant for a license or a licensee or any person who, being a partner, proprietor, manager or an officer of a company or factory, is able to give information required for the purposes of this Act, to furnish such information within such time as they may fix.

Right of access for examination.

8. For the purpose of this Act and the rules framed thereunder, the Director of Agriculture or any officer authorised by him shall have the right of access to any land or premises wherein tobacco seed-beds, or curing barns are located and into any land where Cigarette-tobacco is cultivated for inspection with reference to the prevalence of insect pests or plant diseases and to all other relevant matters within the purview of this Act and the rules thereunder.

Power to order destruction of plant infested with pest.

9. The Director of Agriculture or any officer to whom this power is delegated by him with the approval of Government, shall have the power to order the destruction of all tobacco seedlings or plants which in his opinion are so badly infested with pest or diseases or parasite as to be a source of the spread of such pest, disease or parasite. The decision of the Director of Agriculture on this point shall be final.

Destruction by Director of Agriculture.

10. On default of the party to comply with an order under section 9, the Director of Agriculture or the officer empowered by him shall have the power to arrange for the destruction of such affected plants, the cost incurred for such destruction being recoverable in the same manner as arrears of land revenue.

Returns.

11. The owners of curing barns in the [1][State of Mysore except Bellary District] shall submit such returns as may be required for the purposes of this Act, in such forms, on

1. See the Mysore Adaptation of Laws Order, 1959.

such dates and to such authority as may be prescribed by rules framed thereunder.

Grading.

12. Where tobacco is graded and sold, the grading shall be done in the manner prescribed in the rules.

Penalty.

13. (1) Whoever contravenes any of the provisions of this Act or of the rules made thereunder shall be punishable with fine which may extend to rupees five hundred or in case of continued contravention with a fine which may extend to rupees fifty for everyday during which the contravention is continued after conviction therefor.

(2) Any person who—

(*a*) refuses or neglects to furnish any information required to be furnished for the purpose of this Act or rules made thereunder,

(*b*) refuses access to the Director of Agriculture or officer authorised by him for inspection of seed-beds, cultivation and curing, or

(*c*) fraudulently uses or permits to be used any licence issued under this Act,

shall be punishable with fine which may extend to rupees one hundred.

Liability of Manager, Secretary, etc., of firm or company.

14. Where the person guilty of an offence under this Act is,—

(*a*) an Association or Firm, every partner, member, manager or, secretary and other officer thereof who is knowingly a party to the default, or acts in contravention of any of the provisions of this Act or the rules framed thereunder, and

(*b*) a Company, every Director, Manager, Secretary and other officer thereof who is knowingly a party to the default, or acts in contravention of any of the provisions of this Act or the rules framed thereunder,

shall also be guilty of the like offence and liable to the like punishment.

Class of Magistrate to try offences.

15. No offence made punishable by this Act or by any rule made thereunder shall be tried by a Court inferior to that of a Magistrate of the First Class.

Sanction to prosecute

16. No prosecution under this Act shall be instituted except with the sanction of the Director of Agriculture.

Indemnity for act done in good faith.

17. No suit or other legal proceedings shall be instituted against any person in respect of anything which is done or intended to be done in good faith under this Act.

Power to make rules.

18. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for,—

(*a*) the fixing of the minimum price or prices at which the green tobacco leaf shall be purchased by the curers,

(*b*) the maximum price at which seedlings shall be sold to growers from the licensed seed-beds,

(*c*) the levying of fees in respect of licences granted under this Act,

(*d*) the conditions and limitations subject to which and the authority by whom a licence may be granted,

(*e*) the establishing of advisory committees for the purpose of fixing the price or prices at which green Cigarette-tobacco leaf shall be purchased by a curer and defining the powers, functions and procedure of such committees,

(*f*) the records, registers and accounts to be maintained for ensuring compliance with the provisions of this Act,

(*g*) fixing the grades of cured tobacco, and

(*h*) the returns which the owners of curing barns have to submit, the forms in which, the dates on which and the authority to whom such returns shall be submitted.

MYSORE ACT No. VIII OF 1939.

THE MYSORE POWER ALCOHOL ACT, 1939.

(AS AMENDED BY ACT III OF 1947.)

(Received the assent of His Highness the Maharaja on the seventh day of February 1939.)

An Act to provide for the mixture of Alcohol with Petrol for use as Motor Fuel in the [1][State of Mysore except Bellary District.]

Preamble.

WHEREAS it is expedient to make provision for the development of the Power Alcohol Industry in the State by requiring its compulsory admixture with petrol for use as motor fuel;

It is hereby enacted as follows:—

Short title and extent.

1. (i) This Act may be called the Mysore Power Alcohol Act, 1939.

(ii) It extends to [1][the whole of the State of Mysore except Bellary District.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Distillery" means any premises wherein or within the precincts of which alcohol is manufactured;

(*b*) "Petrol" means dangerous petroleum as defined in the Mysore Petroleum Act, I of 1923;

(*c*) "Alcohol" means ethyl alcohol of not less than 99.4 per cent purity denatured according to the provisions of the Mysore Excise Act, 1901.

Power to direct sale of mixture.

3. (i) The Government may, by notification in the official Gazette, direct that in any local area no petrol shall, from such date as may be specified in such notification, be sold or kept for sale except with an admixture of alcohol manufactured in the State,

[2][Provided that in the case of any breakdown in the supply of power alcohol, the petrol companies in such areas

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1. See the Mysore Adaptation of Laws Order, 1959.
2. Substituted by Act III of 1947.

may sell or keep for sale, with the previous permission of the Excise Commissioner in Mysore and for the period to be specified by him, petrol without an admixture of alcohol manufactured in the State and the fact of such permission having been granted shall be notified in the official Gazette by the said officer.]

(ii) The alcohol to be employed for such admixture shall be obtained from a distillery established by or with the sanction of the Government and the price to be paid to the owner of the distillery for the alcohol shall be fixed by the Government from time to time.

(iii) The proportions of petrol and alcohol in such mixture shall be as notified by the Government in respect of each local area and may be enhanced or reduced from time to time ; but the proportion of alcohol in the mixture shall in no case be more than twenty-five per cent or less than five per cent by volume.

4. [1] * * * *

5. Whoever contravenes the provisions of section 3 shall be punishable with fine which may extend to one thousand rupees and in the case of a continued contravention with a further fine which may extend to one hundred rupees for everyday during which the contravention is continued after conviction therefor. **Punishment.**

6. No prosecution under this Act shall be instituted except under the authority of a District Magistrate. **Prosecution to be authorised.**

7. No offence made punishable by this Act or by any rule made thereunder shall be tried by a Court inferior to that of a Magistrate of the first class. **Offences by whom to be tried.**

8. (i) The Government may make rules for the purpose of carrying into effect the provisions of this Act. **Power to make rules.**

(ii) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe specifications and tests in respect of the purity of alcohol intended for admixture with petrol in order to ensure its suitability for use on motor vehicles ;

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1. Section 4 repealed—See Central Act XXV of 1950.

(*b*) provide for determining the price to be paid to the owner of a distillery for alcohol supplied for purposes of admixture with petrol;

(*c*) [1] * * * *

(*d*) prescribe conditions in respect of the transport and storage of alcohol intended for admixture with petrol and for the manner in which the admixture is to be effected;

(*e*) prescribe the submission by the manufacturer of alcohol and importers and distributors of petrol, of returns regarding the quantities of anhydrous alcohol and petrol, manufactured, purchased, stored and sold;

(*f*) provide for the authorities by whom functions under this Act are to be discharged and prescribe their duties and powers.

(iii) Rules made under this Act may provide that any contravention of such rules shall render the offender liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees.

Exemption of petrol used for aviation.

9. Notwithstanding anything contained in this Act, the Government may, by notification published in the official Gazette, declare that the provisions of this Act shall not apply to petrol required for aviation or other special purposes.

1. Repealed—See Central Act XXV of 1950.

THE MYSORE MONEY LENDERS ACT, 1939.

ARRANGEMENT OF SECTIONS.

Preamble.

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   Application.

2. Definitions.

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3. Appointment of Registrar.

4. Register of money lenders.

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6. Duration of registration.

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20. Penalty for contravention of provisions.

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MYSORE ACT No. XIII OF 1939.

THE MYSORE MONEY LENDERS ACT, 1939.

(*Passed on the third day of July* 1939.)

Preamble.

WHEREAS it is expedient to regulate and control the transactions of money lending ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Mysore Money Lenders Act, 1939.

Application.

(2) The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to any local area or to any class of money lenders from such date as may be specified in the notification and may also by a like notification exclude from the operation of this Act any local area or exempt any money lender or class of money lenders or any class of loans from the operation of all or any of the provisions of this Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " court " includes a court acting in the exercise of insolvency jurisdiction ;

(2) " interest " includes any sum, by whatsoever name called, in excess of the principal, paid or payable to a money lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged in accordance with the provisions of this Act, or any other law for the time being in force, by a money lender for or on account of cost, charges or expenses ;

(3) " loan " means an advance, whether of money or in kind, at interest made by a money lender and includes any transaction which in the opinion of the court is in substance a loan ;

(4) " money lender " means an individual or an undivided Hindu family or an unincorporated body of

individuals or body corporate incorporated under any law in Mysore or outside Mysore, or a body which stands to any such body corporate in the relation of a subsidiary body and includes assignees and the legal representative of the money lender, who or which—

(*i*) carries on the business of money lending in the State ; or

(*ii*) has his or its principal place of such business in the State ;

and includes a pawn-broker ;

(5) " money lending business " or " business of money lending " means the business of advancing loans either solely or in common with any other business ;

(6) " pawn-broker " means a person who carries on the business of taking goods and chattels in pawn for a loan ;

(7) " pawner " means a person delivering an article for pawn to a pawn-broker ;

(8) " prescribed " means prescribed by rules made under this Act ;

(9) " principal " means in relation to a loan the amount actually lent to the debtor ;

(10) " register " means a register of money lenders maintained under section 4 ;

(11) " Registrar " means the Registrar of money lenders appointed under section 3 ;

(12) " secured loan " means a loan for which the money lender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that loan ; and

(13) " unsecured loan " means any loan other than a secured loan.

CHAPTER II.

Registration and Licensing of Money Lenders.

Appointment of Registrars.

3. The Government may appoint Registrars of money lenders for the purpose of this Act and may define the local areas within which each Registrar shall exercise his powers and perform his duties.

Register of money lenders.

4. The Registrar shall maintain a register of money lenders in such form as may be prescribed.

Application for registration.

5. Every money lender shall apply in writing to the Registrar for the area in which the principal place of business of such money lender is situated or in which he intends to carry on the business of money lending, to be registered as a money lender. The application shall contain such particulars as may be prescribed. On receipt of such application the Registrar shall register the name of the applicant in the register unless disqualified under section 19. Any such person ceasing to carry on the business of money lending may, on application to the said authority, get his name struck off from the register.

Duration of registration.

6. A registration of a money lender shall be valid for three years from the date of registration but may be renewed from time to time. If renewed, it shall have effect for three years from the date of the renewal.

Licence.

7. Every money lender whose name has been registered and to whom this section is made applicable shall annually take out a licence from the Registrar on payment of the prescribed fee in such form and subject to such conditions as may be prescribed for carrying on the business of money lending.

Licence to be annual.

8. A licence granted under section 7 shall, unless sooner cancelled, be in force for one year from the date on which it is granted.

CHAPTER III.

Regulation of Accounts.

Duty to keep accounts.

9. Every money lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act, regularly record and maintain or cause to be recorded and maintained an account in such form, language, script and numerals as the Government may prescribe.

Receipts to be given.

10. Every money lender shall, at the time of payment, give to the debtor or his agent for the sum paid by him or on his behalf, a receipt duly signed and if necessary stamped.

Furnishing statement of account.

11. (1) Every money lender shall, on demand made in writing by the debtor at any time during the period when the loan or any part thereof has not been repaid, on payment of the prescribed fee, furnish to the debtor or if he so requires to any person mentioned by him in that behalf, a statement of account in the prescribed form and showing the amount which remains outstanding on account of the principal and of interest :

Provided that where a money lender has complied with the demand, the debtor shall not make a further demand for a statement of account in respect of the same loan within a period of six months from the date of such compliance.

(2) A person to whom a statement of account has been furnished under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to object to the correctness of the account shall not by itself be deemed to be an admission of the correctness of such account.

Duty of pawn-brokers to keep accounts.

12. (1) Every pawn-broker shall regularly record and maintain an account in which, in addition to the particulars contained in the form prescribed under section 9, the following particulars are recorded, namely :—

(*a*) a full and detailed description of the article or of each of the articles taken in pawn ;

(*b*) the time agreed upon for the redemption of the pawn ;

(*c*) the name of the pawner and, where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A true copy of the entries in such account signed by the pawn-broker or his duly authorised agent shall be delivered by him to the pawner at the time of the pawn on tender of the prescribed fee.

(Chapter IV—Provisions relating to Suits in respect of Loans)

Inspection of accounts.

13. (1) If an officer specially authorised in this behalf by the Government has reason to believe that the accounts required to be maintained under this Act by a money lender are not properly maintained by him, such officer may call upon the money lender to produce all his books of account for inspection and such money lender shall be bound to produce all such books.

(2) If from such inspection it appears that such money lender has committed any offence under this Act, such officer may cause proceedings to be instituted against him in the court having jurisdiction.

CHAPTER IV.

PROVISIONS RELATING TO SUITS IN RESPECT OF LOANS.

The maximum rates of interest to be decreed.

14. Notwithstanding anything contained in any law for the time being in force, no court shall in any suit brought in respect of a loan advanced after the commencement of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum rate of compound interest.

15. No money lender shall recover by suit interest of any kind at a rate exceeding 6 per centum per annum with yearly rests in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest.

Act IX of 1923. What is excessive interest under Usurious Loans Act.

16. Where the interest charged is in excess of the rates prescribed as maximum in sections 14 and 15, the court shall presume for the purpose of section 3 of the Usurious Loans Act, 1923, that the interest charged is excessive and that the transaction was substantially unfair.

Arrears of interest not to exceed principal.

17. No court shall, in respect of a loan advanced before or after the commencement of this Act, decree on account of arrears of interest, a sum greater than the principal of the original loan.

Penalty for non-compliance with section 9 or section 12.

18. Notwithstanding anything contained in any enactment for the time being in force,—

(*a*) if in any suit or proceeding relating to a loan the court finds that the provisions of section 9 or section 12 have not been complied with by the money lender it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow the whole or any portion of the costs ;

(*b*) if the money lender to whom a demand has been made under section 11 fails without reasonable excuse to comply therewith within one month after the demand has been made, the court shall disallow interest for the period of default.

CHAPTER V.

PENALTIES.

Court's power to suspend or cancel licence.

19. (1) Where in any suit brought in respect of a loan by a money lender, the court is of opinion that the money lender has been guilty of fraud or of any contravention of the provisions of this Act, or of any rule made thereunder and is unfit to carry on the business of money lending, the court may order that the licence held by such money lender or his registration be suspended for such time as the court may think fit or cancelled and may also declare such money lender disqualified from obtaining a licence or being registered under this Act either permanently or for such period as it thinks fit.

(2) The court shall cause the particulars of any order made under this section to be endorsed on the licence held by the money lender against whom such order is made and shall cause copy of its order to be sent to the Registrar by whom the licence was granted or the registration was made, for the purpose of entering such particulars in the register.

(3) Every holder of a licence shall, on being called upon by the court to do so, produce the licence within such time as may be directed by the court.

(Chapter V—Penalties)

(4) Any person whose licence or registration has been cancelled or suspended in accordance with the provisions of this section shall, during the period for which such order of cancellation has effect or during the period of suspension, as the case may be, be disqualified from being registered or obtaining a licence.

(5) Re-hearings of, and appeals from, any order under sub-section (1) may be had in the same manner and subject to the same conditions in, and subject to which appeals may be had from, any order or decision of the same court within its ordinary jurisdiction. In cases cognizable by a court of small causes appeals shall lie to the principal court of original jurisdiction in the division.

Penalty for contravention of provisions.

20. Whoever makes default in complying with or acts in contravention of any of the provisions of this Act shall, if no specific penalty has been provided in this Act, be punishable,—

(*a*) for the first offence with fine which may extend to rupees two hundred ;

(*b*) for the second offence with fine which may extend to rupees five hundred ; and

(*c*) for any subsequent offence with imprisonment of either description for a term not exceeding one month or with fine which may extend to rupees five hundred or with both ;

and on a conviction under sub-clause (*c*), the court may also order that his registration or licence shall be cancelled.

Removal of disqualification.

21. The Government may, at any time on application in the prescribed form accompanied by the prescribed fee, remove a disqualification imposed on a money lender by a court under section 19 or section 20, having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of offence.

Limitation for prosecutions.

22. No prosecution for an offence under this Act or any rule made thereunder shall be instituted except within one year next after the commission of such offence.

Penalty for molestation.

23. (1) Whoever molests, or abets the molestation of a debtor for the recovery of a debt owed by him to his creditor shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.—For the purpose of this section, a person who, with intent to cause another person to abstain from doing or to do any act which he has a right to do or to abstain from doing—

(*a*) obstructs or uses violence or intimidates such other person ; or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of or hinders him in, the use thereof ; or

(*c*) loiters or does any similar act at or near a house or other place where such other person resides or works, or carries on business, or happens to be ;

shall be deemed to molest such other person :

Provided that a person who attends at or near such house or place in order merely to obtain or communicate information or to make a demand for a loan due shall not be deemed to molest.

Act II of 1904.

(2) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1904, an offence under this section shall be a cognizable offence as defined in the Code.

CHAPTER VI.

MISCELLANEOUS.

Power to make rules.

24. (1) The Government may make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the form of the register mentioned in section 4 ;

(ii) the form of the application mentioned in section 5 and the particulars to be contained therein ;

(iii) the form and conditions of the licence mentioned in section 7, the fee therefor and the manner of payment of the fees ;

(iv) the form, language, script and numerals to be used in the accounts required to be kept under section 9 ;

(v) the form of the statement of account to be furnished under section 11 and the details to be included therein and the fee to be paid for such statement ;

(vi) the fee to be paid for a copy of the entries in a pawn-broker's account to be furnished under section 12 ; and

(vii) the form of the application for removal of a disqualification under section 21 and the fee therefor.

Savings. Act XVIII of 1928 and Act IX of 1923.

25. Nothing contained in this Act shall affect the provisions of the Mysore Agriculturists Relief Act, 1928, or the powers of a court under the Usurious Loans Act, 1923, except to the extent specified in section 16.

Extension of application of certain provisions of Act.

26. The Government may, by notification in the official Gazette, apply all or any of the provisions of Chapters III, IV and V to the loan transactions of creditors other than money lenders.

THE MYSORE AGRICULTURAL PRODUCE MARKETS ACT, 1939.

ARRANGEMENT OF SECTIONS.

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1. Short title.
2. Extent and commencement.
3. Definitions.
4. Notification regarding the establishment of an agricultural produce market.
5. The market committee.
6. Rules.
7. Bye-laws.
8. Sub-Committees and joint committees and delegation of powers.
9. Appointments and salaries of servants of the market committee.
10. Contracts how executed.
11. The Market Committee Fund.
12. Purpose for which the Market Committee Fund may be expended.
13. No trade charges permissible except as prescribed by rules or bye-laws.
14. Market Committee to be a body corporate.
15. Power to borrow.
16. Supersession of market committee.
17. No private market to be opened in or near places declared to be markets.
18. Penalties.
19. Offences to be triable only by a first class magistrate.
20. Recovery of sums due to Government from market committee.

MYSORE ACT No. XVI OF 1939

THE MYSORE AGRICULTURAL PRODUCE MARKETS ACT, 1939.

(AS AMENDED BY ACT XXVI OF 1952.)

An Act to provide for the establishment and the better regulation of Agricultural Produce Markets in the [1][State of Mysore except Bellary District.]

(Received the assent of His Highness the Maharaja on the third day of July 1939.)

Preamble.

WHEREAS it is expedient to provide for the establishment of open markets for the purchase and sale of agricultural produce in the State and for the better regulation of such markets;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Agricultural Produce Markets Act, 1939.

Extent and commencement.

2. (1) It extends to the [1][whole of the State of Mysore except Bellary District.]

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Agricultural produce" means any produce of agriculture or horticulture and includes all produce of animals and their hides, skins and wool, and any article of food or drink wholly or partially manufactured from agricultural produce and declared by the Government by notification in the official Gazette to be agricultural produce for the purposes of this Act;

[2][(*a-i*) "Chief Marketing Officer" means the Chief Marketing Officer appointed by the State Government;]

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1. See the Mysore Adaptation of Laws Order, 1958.
2. Inserted by Act XXVI of 1952.

(*b*) "market" means a market established under section 4;

(*c*) "producer" means a person who grows, manufactures, rears or produces, as the case may be, agricultural produce, but shall not include a trader or a broker in such produce even though he may also be producing it. If a question arises whether any person is a producer or not for the purposes of this Act, the decision of the Deputy Commissioner of the district in which the person permanently resides shall be final;

(*d*) "notified area" means an area notified under section 4;

(*e*) "prescribed" means prescribed by the rules or the bye-laws under this Act.

Notification regarding the establishment of an agricultural produce market.

4. (1) The Government may, after consulting the district board and such other local authorities as they deem necessary or upon a representation made by such local authorities, by notification in the official Gazette, declare that any place shall be a market established under this Act for any agricultural produce.

(2) Every such notification shall define the limits of the markets so established, and may, for the purposes of this Act, include within such limits such local area as the Government may prescribe.

The market committee.

5. For every market there shall be a market committee. The market committee shall be constituted as prescribed and shall consist of not less than twelve and not more than sixteen members. Of these, not less than half shall be producers of agricultural produce of such area and shall either be nominated by the Government or elected in such manner as the Government may prescribe, one shall be a member nominated by the Government, one shall be elected by the district board of the district in which the market for agricultural produce is situated, one by the municipality, if any, of the area in which the market is situated, and the remainder shall be elected by the traders in the market in such manner as may be prescribed.

It shall be the duty of the market committee to enforce the provisions of this Act and the rules and bye-laws made thereunder in the notified area, for the purpose of regulating the purchase and sale of agricultural produce.

6. (1) The Government may, either generally, or specially for any market or group of such markets, make rules consistent with this Act for the purpose of the management and regulation of such markets under this Act. Rules.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for or regulate—

(i) the election and nomination of members of the market committee, the number of members to be nominated or elected and the manner of nomination or election, the preparation and revision of lists of voters from time to time, the payment of all expenditure in connection with or incidental to such nomination or election and the term of office of such members ;

(ii) the powers to be exercised by the market committee ;

(iii) the nomination or election of the chairman of such committee and his term of office ;

(iv) the filling of casual vacancies in the offices of members or in the office of the chairman of the committee ;

(v) the management of the market and the prescribing of the fees by the market committee, and, subject to the provisions of this Act, the collection and disposal of such fees ;

(vi) the issue by the market committee of licences to brokers, weighmen, measurers, surveyors and warehousemen and other persons using the market, the form in which and the conditions under which such licences shall be issued, and the fees to be charged for such licences ;

(vii) the place or places at which agricultural produce shall be weighed or measured and the kind and description of scales, weights and measures to be used at such place or places ;

(viii) the periodical inspection, verification and correction of all scales, weights and measures in use in the market ;

(ix) the trade allowances which may be made or received by any person in any transaction in an agricultural produce in a market ;

(x) the provision of any facilities for the settlement of any dispute between a buyer and a seller of any agricultural produce in the market or their agents including disputes regarding the quality or weight of the agricultural produce, the price or rate to be paid, the allowances for wrappings, dirt or impurities or deductions for any cause ;

(xi) the prohibition of brokers from acting on behalf of both the buyer and seller in any transaction ;

(xii) the manner in which the auctions shall be conducted and bids made and accepted in any market ;

(xiii) the provision of storage arrangements for agricultural produce brought into the market and charges to be levied for the same ;

(xiv) the preparation of the plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates ;

(xv) the form in which the accounts of the market committee shall be kept, the manner in which they shall be audited, and the time or times at which they shall be published as also the charges, if any, to be made for such audit ;

(xiv) the preparation of an annual budget and its submission for sanction, and reports and returns which shall be furnished by the market committee ;

(xvii) the disposal of any surplus funds of the market committee ;

(xviii) generally for the guidance of the market committee.

(3) Any such rules may, when necessary, provide that any contravention thereof or of any of the conditions of any licence issued thereunder shall, on conviction by a magistrate, be punishable with fine which may extend to five hundred rupees.

(4) All rules made under this section shall be subject to previous publication.

Bye-laws.

7. Subject to any rules made by the Government under the last preceding section and with the previous sanction

of [1][the Chief Marketing Officer], the market committee may, in respect of the market under its management, make bye-laws for the regulation of the business and the conditions of trading in such market and may provide that contravention thereof shall, on conviction by a magistrate, be punishable with fine which may extend to fifty rupees.

[2][**7-A.** (1) If it appears to the Chief Marketing Officer that an amendment of the bye-laws of the Market Committee is necessary or desirable in the interests of such Committee, he may call upon the Committee to make the amendment within such time as he may specify.

(2) If the Committee fails to make the amendment within the time specified by the Chief Marketing Officer, he may, after giving the Committee an opportunity of being heard, register such amendment and forward to the Committee in the prescribed manner a copy of the amendment together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendment shall thereupon be binding on the Committee and its members.

(3) An appeal shall lie to the State Government against any order of the Chief Marketing Officer passed under sub-section (2), within one month from the date of the communication by the Chief Marketing Officer, of the registration of the amendment.]

Sub-committees and joint committees and delegation of powers.

8. The market committee may appoint three or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or works or to report on any matter or matters, and may delegate to any one or more of its members such of its own powers as may be necessary.

Appointments and salaries of servants of the market committee.

9. (1) Subject to such rules as may be made by the Government in this behalf, the market committee may employ such officers and servants as may be necessary for the management of the market and may pay such officers and servants such salaries as the committee thinks fit and shall have power to control and punish them.

1. Substituted by Act XXVI of 1952.
2. Inserted by Act XXVI of 1952.

The committee may, in the case of any officer or servant of the Government which it employs, pay such pension, contribution, gratuity or leave allowance as may be required by the regulations made by Government in this behalf and for the time being in force.

(2) The committee may also, in the case of any of its officers and servants, provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper ; and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(3) The powers conferred by this section on the market committee shall be exercised, subject to any rules which may be made in this behalf by the Government.

Contracts how executed.

10. (1) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by the chairman and two other members of the market committee.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a market committee.

The Market Committee Fund.

11. (1) All moneys received by a market committee shall be paid into a fund to be called the " Market Committee Fund " and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said Fund, and any surplus remaining after such expenditure has been met shall be invested as may be prescribed in the rules made in this behalf.

(2) Every market committee shall pay to the Government out of its Fund, the cost of any special or additional staff employed by the Government, in consultation with the committee, for giving effect to provisions of this Act, in the market concerned.

(3) The Government shall determine the cost of such special or additional staff and shall, where the staff is employed for the purposes of more than one market committee, apportion such cost among the committees concerned in such manner as they think fit. The decision of the Government determining the amount payable by any market committee shall be final.

Purpose for which the Market Committee Fund may be expended.

12. Subject to the provisions of section 11, the Market Committee Fund shall be expended for the following purposes only :—

(i) the maintenance and improvement of the market;

(ii) the construction and repair of buildings which are necessary for the purpose of such market and for the health, convenience and safety of the persons using it;

(iii) the pay, pensions, leave allowances, gratuities and pensions or provident fund contributions of the officers and servants employed by the market committee;

(iv) the expenses of and incidental to election;

(v) the acquisition of a site or sites for the market;

(vi) the provision and maintenance of standard weights and measures;

(vii) the payment of interest on loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans;

(viii) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the agricultural crops concerned;

(ix) propaganda in favour of agricultural improvement and thrift; and

(x) with the previous sanction of the Government, any other purpose which is calculated to promote the general interest of the market.

No trade charges permissible except as prescribed by rules or bye-laws.

13. No trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, shall be made or received by any person in any transaction in the market established under this Act and no civil court shall in any suit or proceeding arising out of any transaction in any such market, have regard to any trade allowance not so prescribed.

Explanation.—Every deduction other than deductions on account of deviation from sample when the purchase is made by reference to a sample, or on account of deviation from standard when the purchase is made by reference to a known standard or on account of difference between the actual weight of the sacking or other container and the standard weight thereof, or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this Act.

Market committee to be a body corporate.

14. Every market committee shall be a body corporate by the name of the " The Market Committee of .... " and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and do all other things necessary for the purposes for which it is established.

Power to borrow.

15. (1) Every market committee may, with the previous sanction of the Government, raise the money required for carrying out the purposes of this Act on the security of any property vested in and belonging to the market committee, and of any fees leviable by the market committee under this Act. The committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Government.

(2) The conditions under which such money shall be raised and the time within which the same shall be repayable shall be subject to the previous sanction of the Government.

Supersession of market committee.

16. (1) If in the opinion of the Government a market committee is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act, or exceeds or abuses its powers, the Government may, by an order published in the official Gazette, declare such market committee to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be and may supersede it :

Provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the market committee for showing cause against the proposal and shall consider the explanations and objections, if any, of the said committee.

(2) When a market committee has been superseded, all members of the committee shall as from the date of the order vacate their offices as members.

(3) When a market committee has been superseded, the Government may, at its discretion, by order, either constitute a new committee under section 5, or make such arrangements for the carrying out of the functions of the committee as the Government thinks fit.

(4) When a market committee has been superseded, all property and rights vested in it shall, subject to all charges and liabilities affecting the same, vest in the Government:

Provided that if the Government makes an order under sub-section (3), it shall transfer the assets and liabilities of the market committee as on the date of such transfer, to the new committee constituted under section 5 or to the person, or persons if any, appointed for carrying out the functions of the committee, as the case may be:

Provided further that if no new market committee is constituted for the market under section 5, all property that shall remain after the satisfaction of all the debts and liabilities of the superseded market committee shall be used by the Government for any object of public utility in the notified area.

No private market to be opened in or near places declared to be markets.

17. Wherever the Government has, by a notification under section 4, declared any place to be a market, no person shall, within the limits of such market or within a distance thereof to be notified in the official Gazette in this behalf in each case by the Government, except with the sanction in writing of the Government expressed over the signature of a Secretary to the Government and subject to such conditions as may be imposed in such sanction, set up, establish or continue or allow to be continued any market for the purpose of the purchase and sale of agricultural produce.

Explanation.—A person shall not be deemed to set up, establish or continue or allow to be continued a place as a market for the purpose of the purchase and sale of agricultural produce if he sells his own agricultural produce outside the premises set apart by the market committee for the purpose of purchase and sale of agricultural produce.

Penalties.

18. Whoever in contravention of this Act, sets up, establishes, continues or allows to be continued any market for the purpose of the purchase and sale of agricultural produce or violates the conditions under which he has been allowed to set up, establish or continue any such market, shall on conviction by a magistrate be punished with fine which may extend to rupees five hundred and in case of a continuing breach of the provisions of section 17, with fine which may extend to rupees one hundred for each day after the first, during which the breach continues.

Offences to be triable only by a first class magistrate.

19. (i) No offence under this Act or under any rules made under section 6 or under any bye-laws made under section 7 shall be triable by a magistrate other than a magistrate of the first class.

(ii) All fines and damages recovered from an offender shall be paid to the market committee.

(iii) Prosecution under this Act may be instituted by any person duly authorised in writing by the market committee or by an officer designated by the Government in this behalf.

Recovery of sums due to Government from market committee.

20. All sums due from a market committee to the Government may be recovered in the same manner as arrears of land revenue.

MYSORE ACT No. II OF 1940.

THE MYSORE COFFEE HUSK CONTROL ACT, 1940.

(Received the assent of His Highness the Maharaja, on the 30th day of January 1940.)

WHEREAS it is expedient to prohibit or restrict the import and export of coffee husk to and from [1][the State of Mysore except Bellary District] and to provide for the control of the transport and sale of coffee husk within [1][the State of Mysore except Bellary District]; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Coffee Husk Control Act, 1940.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force from such date as the Government may by notification in the official Gazette, appoint in this behalf.

Prohibition of import or export of coffee husk.

2. No coffee husk shall be imported into or exported from [1][the State of Mysore except Bellary District] except with the permission of the Government.

Prohibition of transport of coffee husk.

3. The Government may from time to time, by notification, prohibit the transport of coffee husk from one local area to any other local area.

Prohibition of sale, etc., of coffee husk.

4. No coffee husk shall be sold or otherwise disposed of, except with the permission of the Government and subject to such conditions as it thinks fit to impose.

Penalty for contravention.

5. (1) Whoever, in contravention of this Act or of any rules or order made under this Act or of any licence or permit obtained under this Act, imports, exports, transports or sells or otherwise disposes of any coffee husk shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees.

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1. See the Mysore Adaptation of Laws Order, 1958.

(2) Notwithstanding anything contained in the second schedule of the Code of Criminal Procedure, 1904, an offence under this Act shall be a cognisable offence as defined under the Code.

Power to make rules.

6. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) All rules made under this Act shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

(*Chapter I—Preliminary*)

MYSORE ACT No. XII OF 1940.

THE MYSORE PUBLIC SECURITY ACT, 1940.

(AS AMENDED BY ACT LVII OF 1949.)

(*Received the assent of His Highness the Maharaja on the second day of February* 1940.)

WHEREAS it is expedient to supplement the criminal law for the purpose of securing the public safety and interest; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and duration.

1. (1) This Act may be called the Mysore Public Security Act, 1940.

(2) The Government may, by notification in the official Gazette, from time to time, apply all or any of the provisions of this Act to the whole or any part of the State and may cancel or modify such notification from time to time.

Definition.

2. In this Act unless there is anything repugnant in the subject or context—

(1) "the Code" means the Code of Criminal Procedure, 1904;

(2) (*a*) "association" means any combination or body of persons, whether the same be known by any distinctive name or not, and

(*b*) "unlawful association" means an association,—

(i) which encourages or aids persons to commit acts of violence or intimidation or the members of which habitually commit such acts, or

(ii) which has been declared to be unlawful by the Government under the powers conferred under this Act;

(3) "foreigner" shall denote a person who is not a natural born subject of His Highness the Maharaja, or who has not acquired domicile in the State by residence therein for not less than five years immediately preceding the date when the question of his status arises coupled with the intention to reside therein permanently ;

(4) "notified place" means a place which has been notified under section 14 ;

(5) (i) "public meeting" means a meeting which is open to the public or any class or portion of the public ;

(ii) a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise.

CHAPTER II.

SPECIAL POWERS OF ARREST, DETENTION AND SEARCH.

Power to arrest and detain suspected persons.

3. (1) Any officer of the Government, authorised in this behalf, by general or special order of the Government, may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace, himself arrest such person without warrant, or may direct the arrest without warrant of such person, and in making such arrest, may use any means that may be necessary to effect the arrest.

(2) An arrest made by or on the direction of any officer under this section shall be reported forthwith to the Government by the officer so making or so directing the arrest, as the case may be, and such officer may, by order in writing, commit any person so arrested to such custody as the Government may, by general or special order, specify in this behalf :

Provided that no person shall, unless the Government by special order otherwise directs, be so detained in custody for a period exceeding fifteen days :

Provided furher that no person shall be so detained in custody for a period exceeding two months.

[1][(2A) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained, he shall be liable to be detained under such conditions, including conditions as to maintenance, discipline and the punishment of offences and breaches of discipline, and temporary release, as the Government may, from time to time, by general or special order specify.

(2B) The period of temporary release of any person under the provisions of sub-section (2A) shall count towards the total period of detention of such person under sub-section (2).]

(3) Any order passed by an officer under sub-section (1) may be revised by the Government.

Power to control suspected persons.

4. (1) The Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act, in a manner prejudicial to the public safety or peace or in furtherance of a movement prejudicial to the public safety or peace, may, by order in writing, give any one or more of the following directions, namely, that such person,—

(*a*) shall not enter, reside or remain in any area specified in the order;

(*b*) shall reside or remain in any area specified in the order;

(*c*) shall remove himself from, and shall not return to, any area specified in the order;

(*d*) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.

[1][(1A) The Government may, by order in writing and subject to such conditions as may be prescribed in such order, declare that any direction under sub-section (1) shall not apply to any person for such period as may be specified by it.]

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[1]. Inserted by Act LVII of 1940.

(2) An order made under sub-section (1) shall not, unless the Government by special order otherwise directs, remain in force for more than one month from the making thereof.

(3) An order made under sub-section (1) shall be served on the person to whom it relates in the manner provided in the Code for service of a summons.

Power to prohibit or regulate traffic.

5. (1) The District Magistrate may, by order in writing, prohibit or regulate, in such way as he may think necessary in the interests of the public safety or peace, traffic over any road, pathway, bridge, waterway or ferry.

(2) Whoever disobeys, or neglects to comply with, an order made under this section shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Power to secure reports of public meetings.

6. The District Magistrate, if, in his opinion, it is necessary in the interests of the public safety or peace, may, by order in writing, depute one or more police officers not below the rank of Sub-Inspector, or other persons, to attend any public meeting for the purpose of causing a report to be made of the proceedings, and may, by such order, authorise the persons so deputed to take with them an escort of police officers.

Power to issue search warrants.

7. The power to issue search warrants conferred by section 98 of the Code shall be deemed to include a power to issue warrants authorising—

(*a*) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Act or any act prejudicial to the public safety or peace has been, is being, or is about to be committed, or that preparation for the commission of any such offence or act is being made ;

(*b*) the seizure in or on any place searched under clause (*a*) of anything which the officer executing the warrant has reason to believe is being used, or is intended to be used, for any purpose mentioned in that clause ;

and the provisions of the Code shall, so far as may be, apply to searches made under the authority of any warrant

issued, and to the disposal of any property seized, under this section.

Dissemination of contents of proscribed documents.

8. Whoever publishes, circulates, sells, or repeats in public any passage from, a newspaper, book or other document, copies whereof have been declared forfeited to the Government under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Power to give effect to orders if disobeyed.

9. (1) If any person disobeys or neglects to comply with an order made, direction given, or condition prescribed, in accordance with the provisions of this Chapter, the authority which made the order, gave the direction, or prescribed the condition, may ake or cause to be taken such action as it thinks necessary to give effect thereto.

(2) No claim for compensation may be lodged for loss or damage caused in any case where action has been taken under sub-section (1).

Penalty for disobeying order under section 4.

10. Whoever disobeys or neglects to comply with any [1][order made, direction given or conditions prescribed in accordance with the provisions of sub-section (2A) of section 3 or section 4] shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

CHAPTER III.

UNLAWFUL ASSOCIATION.

Power to declare associations unlawful.

11. If the Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the Government may, by notification in the official Gazette, declare such association to be unlawful.

Penalties.

12. (1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the

1. Substituted by Act LVII of 1949.

purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or promotes, or assists in promoting, a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Continuance of association.

13. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power to notify and take possession of places used for the purposes of an unlawful association.

14. (1) The Government may, by notification in the official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.

(2) The District Magistrate, or any officer authorised in this behalf in writing by the District Magistrate, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking of possession to the Government:

Provided where such place contains any apartment occupied by women and children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of the Government so long as the notification under sub-section (1) in respect thereof remains in force.

Moveable property found in a notified place.

15. (1) The District Magistrate or other officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof and submit it, with a report of the taking of possession of such moveable property, to the Government.

(2) If, in the opinion of the Government, any article specified in the list is or may be used for the purpose of the unlawful association, the Government may, by order in writing, declare such article to be forfeited to the Government and may give such directions for the disposal thereof as it may think fit.

(3) All other articles specified in the list which are not so forfeited shall be delivered by the District Magistrate to the person whom he considers to be entitled to possession thereof, or if no such person is found, shall be disposed of in such manner as the District Magistrate may direct.

Trespass upon notified places.

16. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, and notwithstanding anything contained in the Code any such offence of criminal trespass shall be cognisable and non-bailable.

The relinquishment of property.

17. Before a notification under sub-section (1) of section 14 is cancelled, the Government shall give such general or special directions as it may deem requisite regulating the relinquishment by the Government of possession of notified places.

Power to forfeit funds of an unlawful association.

18. (1) Where the Government is satisfied, after such inquiry as it may think fit, that any moneys, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Government may, by order in writing, declare such moneys, securities or credits to be forfeited to the Government.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the moneys, securities or credits, and on the service of such copy, such person shall pay or deliver the moneys, securities or credits to the order of the Government:

Provided that, in the case of moneys or securities, a copy of the order may be endorsed for execution to such officer as the Government may select, and such officer shall have power to enter upon and search for such moneys

and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Where the Government has reason to believe that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Government. A copy of such order shall be served upon the person to whom it is directed.

(4) The Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of, and dealings in, any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(5) A copy of an order under this section may be served in the manner provided in the Code for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or where there is no registered office, at the place where it carries on business.

(6) Where an order of forfeiture is made under sub-section (1) in respect of any moneys, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the moneys, securities, or credits forfeited to the order of the Government.

(*Chapter IV—Prevention of Seditious and certain other Public Meetings*)

(7) Where any person liable under this section to pay or deliver any moneys, securities, or credits to the order of the Government, refuses or fails to comply with any direction of the Government in this behalf, the Government may recover from such person, as arrears of land revenue or as a fine, the amount of such moneys or credits or the market value of such securities.

(8) In this section, "security" means a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the "market value of any security" means the value as fixed by any officer or person deputed by the Government in this behalf.

CHAPTER IV.

Prevention of Seditious and certain other Public Meetings.

Power of Government to notify proclaimed area.

19. (1) The Government may, by notification in the official Gazette, declare the whole or any part of the State to be a proclaimed area.

(2) A notification made under sub-section (1) shall not remain in force for more than six months; but nothing in this sub-section shall be deemed to prevent the Government from making any further notification in respect of the same area from time to time as it may think fit.

Notice to be given of public meetings.

20. (1) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or for the exhibition or distribution of any writing or printed matter relating to any such subject, shall be held in any proclaimed area—

(*a*) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate at least three days previously; or

(*b*) unless permission to hold such meeting has been obtained in writing from the District Magistrate.

(2) Nothing in this section shall apply to any public meeting held under any statutory or other express legal auhority or to any public meetiugs or class of public meetings exempted for that purpose by the Government by general or special order.

Power to prohibit public meetings.

21. The District Magistrate may, at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area, if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity.

Penalties.

22. (1) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of section 20 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Any public meeting which has been prohibited under section 21 shall be deemed to be an unlawful assembly within the meaning of Chapter VIII of the Indian Penal Code, as in force in Mysore, and of Chapter IX of the Code.

Penalty for delivery of speeches in public places.

23. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted from the provisions of section 20, without the permission in writing of the District Magistrate, previously obtained, delivers any lecture, address, or speech on any subject likely to cause disturbance or public excitement to persons then present, may be arrested without warrant and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

CHAPTER V.

Provisions against certain forms of Intimidation.

Molesting a person to prejudice of employment or business.

24. (1) Whoever,—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or

uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place or interferes with any property owned or used by him or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of Sub-Inspector.

Procedure in offences under the Chapter.

25. Notwithstanding anything contained in the Code, an offence punishable under section 24 shall be cognizable by the police and shall be non-bailable.

Power to Government to make certain offences cognizable and non-bailable.

26. (1) The Government may, by notification in the official Gazette, declare that any offence punishable under sections 186, 188, 190, 228, 298, 384, 385, 426, 427, 505, 506 or 507 of the Indian Penal Code, as in force in Mysore, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code be cognizable, and thereupon the Code shall, while such notification remains in force, be deemed to be amended accordingly.

(2) The Government may, in like manner and subject to the like conditions, and with the like effect declare that an offence punishable under section 188 or section

506 of the Indian Penal Code, as in force in Mysore, shall be non-bailable.

CHAPTER VI.

PROVISIONS AGAINST INSTIGATION TO THE ILLEGAL REFUSAL OF THE PAYMENT OF CERTAIN LIABILITIES.

Power to declare notified areas and notified liabilities.

27. (1) The Government may, by notification in the official Gazette, declare that the whole or any part of the State shall be a notified area for the purposes of this Chapter.

(2) The Government may further, by the same or by subsequent notification, declare that in such notified area, land revenue or any sum recoverable as arrears of land revenue or any tax, rate, cess or other dues or amount payable to the Government or to any local authority, or rent of agricultural land or anything recoverable as arrears of or along with such rent, shall be a notified liability.

Punishment for unlawful instigation to the non-payment of notified liability.

28. Whoever by words, either spoken or written, or by signs or by visible representations or otherwise, instigates, expressly or by implication any person or class of persons not to pay or to defer payment of any notified liability or whoever does any act with intent, or knowing it to be likely that any words, signs, or visible representations containing such instigation, shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever, shall be punishable with imprisonment which may extend to six months or with fine, or with both.

Explanation.—Comments made in good faith expressing disapprobation of the incidence, rate or amount of a notified liability, without instigating refusal to pay such liability, but with a view to securing by lawful means a temporary or permanent remission or reduction thereof shall not constitute an offence under this section.

Power to collect an arrear of a notified liability as an arrear of land revenue.

29. (1) Any person to whom an arrear of a notified liability is due, may apply in writing to the Deputy Commissioner to realize it, and the Deputy Commissioner may, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land revenue, in

accordance with the law applicable to the recovery of arrears of land revenue in the area concerned.

(2) Nothing in this section shall prevent any person, to whom an arrear of a notified liability is due, from recovering it in accordance with the law applicable to the recovery of such arrear.

(3) Any person from whom an amount has been recovered under this section in excess of the amount due from him, may recover such excess in accordance with law from the person on whose behalf the Deputy Commissioner has realized it.

Special rule of procedure.

30. No magistrate shall take cognizance of any offence punishable under this Chapter, except upon a report in writing of facts, which constitute such offence, made by a police officer not below the rank of Sub-Inspector.

CHAPTER VII.

Provisions Relating to Foreigners.

Proof of being a foreigner.

31. If a question shall arise whether any person alleged to be a foreigner, is a foreigner or not, the onus of proving that such person is not a foreigner, shall lie upon such person.

Government may order foreigner to remove himself.

32. The Government may, by writing, order any foreigner to remove himself from Mysore, or to remove himself therefrom by a particular route to be specified in the order.

Foreigner may be apprehended or detained pending order of removal.

33. (1) Whenever a District Magistrate considers that the Government should be moved to issue an order under section 32 in respect of any foreigner who is within the jurisdiction of such Magistrate, he may report the case to the Government and at the same time issue a warrant for the apprehension of such foreigner.

(2) The Magistrate issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement

on the warrant that if such foreigner executes a bond with or without sureties for his attendance at a specified place and time, the person to whom the warrant is directed shall take such security and release such foreigner from custody.

(3) Any person executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant; and, subject to any direction issued under sub-section (2), shall forthwith cause such foreigner when apprehended to be produced before the Magistrate issuing the warrant.

(4) When a foreigner for whose apprehension a warrant has been issued under sub-section (1) is produced or appears before the Magistrate issuing such warrant, such Magistrate may direct him to be detained in custody pending the orders of the Government, or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter if and when required until such orders are obtained.

(5) Any Magistrate who has in accordance with the provisions of sub-section (4) ordered a foreigner to be detained or released on his executing a bond shall forthwith report the fact to the Government. On the receipt of a report under this section, the Government shall without delay either direct that the foreigner be discharged or make an order for the removal of such foreigner in accordance with the provisions of section 32.

Penalty for refusing to move or returning after removal.

34. (1) If any foreigner ordered to remove himself from Mysore, or ordered to remove himself therefrom by a particular route, shall neglect or refuse to do so, or

if any foreigner, having removed himself from Mysore, in consequence of an order issued under any of the provisions of this Chapter, or having been removed from Mysore under any of the said provisions, shall wilfully return thereto without permission in writing granted by the Government,

such foreigner may be apprehended and detained in safe custody and the Government may thereupon discharge him upon such terms and conditions as the Government shall deem sufficient or cause him to be removed from the State in such manner as it shall deem fit.

(2) Notwithstanding anything in the provisions of this Chapter, if a foreigner disobeys or neglects to comply with any order made or directions given in accordance with the provisions of this Chapter, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

CHAPTER VIII.

SUPPLEMENTAL.

Penalty for obstructing officers.

35. Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act shall be held to have committed the offence specified in section 186 of the Indian Penal Code, as in force in Mysore.

Cognizance of offence.

36. No court inferior to that of a Magistrate of the First Class shall try any offence against this Act.

Jurisdiction barred.

37. Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.

Repeal and savings.

38. The Mysore Public Security Act (Emergency Act No. XXIV of 1939) is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Mysore Public Security Act (Act No. XXIV of 1939) shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 25th day of September 1939.

MYSORE ACT No. IV OF 1941.

THE ADVOCATE-GENERAL (DESIGNATION) ACT, 1941.

(*Received the assent of His Highness the Maharaja on the twenty-seventh day of January* 1941.)

WHEREAS it is expedient to change the designation of the Government Advocate in Mysore ; it is hereby enacted as follows :—

Short title and commencement.

1. (*a*) This Act may be called the Advocate-General (Designation) Act, 1941.

(*b*) It shall come into force at once.

Change of designation of Government Advocate.

2. For the words " Government Advocate " wherever they occur in any Regulation, Act or other law for the time being in force, or any Rules, Order or Notification made under any such Regulation, Act or other law, the words " Advocate-General " shall be substituted.

THE MYSORE ELEMENTARY EDUCATION ACT, 1941.

ARRANGEMENT OF SECTIONS.

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2. Repeal of Act X of 1930 and savings.
3. Definitions.

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4. Devolution of properties and rights of Local Education Authorities to the Government.
5. Management and control of elementary education to vest in the Government.
6. Transfer of teachers and servants in Elementary schools to service under the Government.

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8. Expenses for Elementary Education to be met out of Elementary Education Funds.
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DISTRICT EDUCATION COMMITTEES AND THE CENTRAL EDUCATION BOARD.

11. Constitution of District Education Committees.
12. Membership of District Education Committee.
13. Appointment of Chairman of District Education Committee.
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15 Casual vacancies during the term of a District Education Committee.
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17. Meetings and duties of the District Education Committee.
18. Constitution of Central Education Board.
19. Membership of Central Education Board.
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25. Duty of parent to send children to school in specified areas.
26. Reasonable excuse for non-attendance.
27. No compulsion regarding attendance of religious classes.
28. Prohibition of child's employment.
29. Prosecution of parent failing to send child to school without lawful excuse.
30. Employer's liability for contravening provisions of section 28.
31. Appointment of officers or committees.

CHAPTER VII.

Partial Compulsory Education.

32. Application of provisions of Chapter to specified areas.
33. Duty of parent to send children to school.
34. Reasonable excuse for non-attendance.
35. No compulsion regarding attendance of religious classes.
36. Prohibition of children's employment.
37. Prosecution of parent failing to send child to school without lawful excuse.
38. Employer's liability for contravening provisions of section 37.
39. Appointment of Officers or Committees for enforcing the provisions.

CHAPTER VIII.

Miscellaneous.

40. Power to delegate powers under this Act.
41. Declaration of school not established or maintained by the Government to be an Elementary School.
42. Powers to make rules.
43. Comprehensive statement to be presented to the Legislatures annually.

Schedule.

MYSORE ACT No. VI OF 1941.

THE MYSORE ELEMENTARY EDUCATION ACT, 1941.

(AS AMENDED BY ACTS VI OF 1944, XXXII OF 1944 AND XVII OF 1949.)

(*Received the assent of His Highness the Maharaja on the twelfth day of February* 1941.)

An Act to amend and consolidate the law relating to Elementary Education in [1][State of Mysore except Bellary District].

WHEREAS the existing arrangements for the management of elementary education have proved inadequate; and

WHEREAS it has become necessary for the Government to resume charge of elementary education in order to make more satisfactory provision for its progressive expansion;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Elementary Education Act, 1941.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) All the provisions of this Act shall come into force on and from the first day of July 1941, except the provisions of Chapter VI, which shall come into force in such areas and on and from such date or dates as the Government may, by notification in the official Gazette appoint.

Repeal of Act X of 1930 and savings.

2. (1) The Mysore Elementary Education Act, 1930, is hereby repealed.

(2) Notwithstanding such repeal, any rules made, any notifications issued, anything done and any action taken

1. See the Mysore Adaptation of Laws Order, 1953.

in exercise of any power conferred by the said Act shall, in so far as they are not inconsistent with any of the provisions of this Act, be deemed to be made, issued, done or taken under this Act.

(3) Save where the context otherwise requires, expressions defined in the said Act shall, notwithstanding such repeal, carry the same meanings whenever used in this Act.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(1) "district" means any local area which for the purposes of the revenue administration is under the charge of a Deputy Commissioner or which, for the purposes of this Act, the Government may by notification declare to be a district ;

(2) "district board" means a District Board constituted under the Mysore District Boards Act, 1926[1] ;

[2][(3) "municipality" or "municipal council" means a municipality or municipal council constituted under the Mysore City Municipalities Act, 1933, the Mysore Town Municipalities Act, 1933[3], or the Mysore Minor Municipalities Act, 1933[3], and the municipal commission constituted under the Bangalore Municipal Law, 1897 ;]

(4) "education department" means the Director of Public Instruction in Mysore and any officer or authority subordinate to him, to whom any of his functions may be delegated by the Government ;

(5) "elementary education" means the courses extending over a period of not less than four years and provided in Kannada, Urdu or other vernacular language in such subjects and up to such standards as may be prescribed or approved from time to time by the Government for the purposes of this Act ;

(6) "elementary school" means a school established or maintained by the Government and providing elementary education or recognised as an elementary school under the provisions of this Act ;

[4][(6-*a*) 'Local Body' means a District Board, a Municipal Council, a Sanitary Board or a Town Board.]

1. Repealed and re-enacted as Mysore Act IV of 1952.
2. Substituted by Act XVII of 1949.
3. Repealed and re-enacted as Mysore Act XXII of 1951.
4. Inserted by Act VI of 1944.

(*Chapter II—Transfer of property and Control to the Government—Chapter III—Elementary Education Fund*)

(7) "parent" includes the guardian and every person who is liable to maintain or has the actual custody of a child;

(8) "prescribed" means prescribed by rules made by the Government under this Act.

CHAPTER II.

TRANSFER OF PROPERTY AND CONTROL TO THE GOVERNMENT.

Devolution of properties and rights of Local Education Authorities to the Government.

4. All property and all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in, or held in trust by or for, any Local Education Authority, including all moneys standing to the credit of the Elementary Education Fund, constituted under the Mysore Elementary Education Act, 1930, and administered by such authority, as well as all liabilities legally subsisting against such authority shall, on and from the date of commencement of this Act, pass to the Government.

Management and control of elementary education to vest in the Government.

5. On and from the date of commencement of this Act, the management of and control over elementary education in [1][State of Mysore except Bellary District] shall vest in the Government.

Transfer of teachers and servants in elementary schools to service under the Government.

6. All teachers and servants serving in elementary schools maintained hithertofore by Local Education Authorities shall, on and from the date of commencement of this Act, be transferred to and become servants of the Government, and shall become subject to all rules and orders which apply to service under the Government.

CHAPTER III.

ELEMENTARY EDUCATION FUND.

Constitution of Elementary Education Funds.

7. There shall be constituted in each district an Elementary Education Fund to which shall be credited :—

(i) all moneys standing to the credit of the Elementary Education Fund, constituted under the Mysore Elemen-

1. See the Mysore Adaptation of Laws Order, 1958.

tary Education Act, 1930, for the area of that District or part of that District and vesting in the Government under section 4;

(ii) all amounts provided by the Government from time to time for Elementary Education in that District;

(iii) the amount of all collections from education cess levied in that District, except such amount as was expended for purposes other than elementary education and charged to education cess prior to the date of commencement of this Act and continued to be so charged thereafter by the Government;

(iv) all fines and penalties levied under this Act in respect of cases arising within that District; and

(v) all fees collected within that District for the purposes specified in the proviso to section 24.

Expenses for elementary education to be met out of Elementary Education Funds.

8. All expenses incurred by the Government on elementary education in any district shall be paid out of the Elementary Education Fund for that district.

EDUCATION CESS AND CONTRIBUTIONS BY LOCAL AUTHORITIES.

Levy of education cess or additional education cess.

9. [1][(1) The Government may, for carrying out the purposes of this Act, levy throughout or in any part of [2][State of Mysore except Bellary District], an education cess on any or all of such items of State revenue or of tax levied under any Act, or rule constituting Local Bodies in [2][State of Mysore except Bellary District] and at such rates as are specified in the schedule to this Act.]

(2) The Government may, subject to the approval of the Legislative Council by resolution recorded in this behalf alter or add to the rates prescribed in the schedule and such alteration or addition when published in the official Gazette shall have the force of law and all references in the Act to the schedule shall be construed as referring to such schedule as is in force at the time.

Continuance of cess hitherto levied or collected by local authorities.

[3][**10.** Notwithstanding anything to the contrary in any other enactment or rule, any education cess levied under this Act may be recovered by a Local Body constituted

1. Substituted by Act VI of 1944.
2. See the Mysore Adaptation of Laws Order, 1953.
3. Substituted by Act VI of 1944.

under any Act or Rule in the manner prescribed for the recovery of a claim due under the Act or Rule constituting the Local Body, as if, for purposes of the recovery, the education cess were such a claim.]

CHAPTER IV.

District Education Committees and the Central Education Board.

Constitution of District Education Committees.

11. There shall be constituted for each district a District Education Committee consisting of a Chairman and such number of members as the Government may prescribe.

Membership of District Education Committee.

12. (1) In districts where District Boards are in existence, such District Boards, and in other districts such local authority as the Government may prescribe, shall be entitled to elect one half the number of members of the District Education Committee in such manner as may be prescribed.

(2) The other half of the number or members of the Committee shall be appointed by the Government, having regard to the representation of Urdu, depressed class and girls' educational interests and of municipalities.

Appointment of Chairman of District Education Committee.

13. The Government may appoint one of the members of the District Education Committee to be its Chairman or it may authorise the Committee to elect its Chairman in such manner as may be prescribed and subject to the approval of the Government.

Term of District Education Committees.

14. The term of a District Education Committee shall expire with that of the District Board or other local authority entitled to elect members to it :

Provided that a District Education Committee shall be deemed to continue until a new Committee is constituted for the district.

(Chapter IV—District Education Committees and the Central Education Board)

Casual vacancies during the term of a District Education Committee.

15. Casual vacancies occurring during the term of a District Education Committee shall be filled up by nomination or election, as the case may be, for the remaining period of its term.

Appointment of Secretary to District Education Committee.

16. The Government may appoint for each District Education Committee a Secretary from amongst its members.

Meetings and duties of the District Education Committee.

17. The District Education Committee shall ordinarily meet once a year and oftener if necessary and if the Government so direct, and consider any plans or programmes placed before it for the expansion and development of elementary education in its district for the year next succeeding such meeting and advise upon any matters relating to elementary education referred to it by the Education Department or the Central Education Board.

CENTRAL EDUCATION BOARD.

Constitution of Central Education Board.

18. There shall be a Central Education Board for elementary education.

Membership of Central Education Board.

19. Each District Education Committee shall be entitled to elect in such manner as may be prescribed, one member to represent it on the Central Education Board and the Government shall appoint an equal number of members to it. The President, and the Secretary, to the Board shall be appointed by the Government.

Term of Central Education Board.

20. The term of the Central Education Board shall be prescribed by the Government, provided however, that a member who is elected by a District Education Committee shall cease to be a member thereof on the expiry of the term of the Committee.

Casual vacancies during the term of the Central Education Board.

21. Casual vacancies occurring during the term of the Board shall be filled by election or nomination, as the case may be, for the remaining period of its term.

(Chapter V—Tuition Fees—Chapter VI—Compulsory Education)

22. The Central Education Board shall meet at such times and as often as may be prescribed. The Central Education Board to meet as often as may be prescribed.

23. It shall be the duty of the Central Education Board to— Duties of the Central Education Board.

(i) consider the reports submitted by the District Education Committees; and

(ii) advise upon all such matters as may be referred to it by the Education Department.

CHAPTER V.

Tuition Fees.

24. No fees shall be charged or other charges of any kind made in any school for elementary education managed by the Government: No fees to be charged in any school for elementary education managed by the Government.

Provided that for the medical inspection of a child or for promoting its civic or physical training or for its re-admission into the school such amount as may be prescribed shall, if so directed by notification in the official Gazette by the Government, be payable by a parent once in a year in one or more instalments.

CHAPTER VI.

Compulsory Education.

25. In every area to which the provisions of this Chapter have been applied and from such date as they are brought into force, it shall be the duty of the parent of every child between the ages of six and ten residing within such area to cause that child to attend an elementary school for so many days in the year for such time on each day of attendance as may be prescribed by the Education Department unless there is a reasonable excuse for its non-attendance. Duty of parent to send boys to school in specified areas.

Reasonable excuse for non-attendance.

26. (1) Any of the following circumstances is a reasonable excuse for non-attendance :—

(i) that there is no elementary school which the child can attend within a distance of one mile from the residence of the child,

(ii) that the child is prevented from attending school by sickness or infirmity or other unavoidable cause, or

(iii) that the child is receiving instruction in some other satisfactory manner, or

(iv) that the child has been exempted from such attendance by proper authority.

(2) Where a reasonable excuse for non-attendance exists, the parent shall obtain a certificate of exemption from such authority and in such manner as may be prescribed.

No compulsion regarding attendance of religious classes.

27. If religious classes are held in any elementary school in an area to which the provisions of this Chapter have been applied, no child shall be compelled to attend such classes against the wishes of its parent.

Prohibition of boy's employment.

28. No person shall, without the permission of the Education Department in writing, employ during school hours any child between the ages of six and ten, who is required to attend an elementary school under this Chapter.

Prosecution of parent failing to send boy to school without lawful excuse.

29. A parent who without lawful excuse fails to send to an elementary school any child who is required to attend school under this Chapter shall, after due warning in such manner and by such authority as may be prescribed, be liable on conviction by a Magistrate to a fine not exceeding two rupees, and to a fine not exceeding ten rupees for a second or subsequent conviction.

Employer's liability for contravening provisions of section 28.

30. Any person who knowingly employs any child in contravention of the provisions of section 28, shall, on conviction by a Magistrate be liable to a fine not exceeding twenty rupees.

Appointment of officers or committees.

31. The Government may, for carrying out the provisions of this Chapter effectively, appoint one or more officers or committees for such areas with such powers and duties as may be prescribed.

(*Chapter VII—Partial Compulsory Education*)

[1][CHAPTER VII.

PARTIAL COMPULSORY EDUCATION.

32. The Government may, by notification in the official Gazette, apply the provisions of this Chapter to such areas and from such dates as may be specified therein :

Provided that all the provisions shall be brought into force throughout Mysore within a period of ten years.

33. In every area to which the provisions of this chapter have been applied and from such date as they are brought into force, it shall be the duty of the parent of every child residing within such area and voluntarily joining an elementary school, to cause that child to attend the school for as many days in the year and for such time on each day of attendance as may be prescribed by the Education Department unless there is a reasonable excuse for its non-attendance :

Provided that this duty of the parent shall subsist only until the child completes the Elementary Education course prescribed from time to time by the Education Department, or completes its twelfth year, whichever is earlier.

34. (1) Any of the following circumstances is a reasonable excuse for non-attendance :—

(i) that the child is forced by circumstances to shift to another place where no elementary school within one mile from its residence is situated ; or

(ii) that the child is prevented permanently from attending school by sickness or infirmity or other unavoidable cause ; or

(iii) that the child is receiving instruction in some other satisfactory manner ; or

(iv) that the child has been exempted from continuing its studies by proper authority ; or

(v) that the elementary school which it attended is abolished by the Department and there is no such school within one mile which it could attend.

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1. Chapter VII inserted by Act XXXII of 1944.

(2) Where a reasonable excuse for non-attendance exists, the parent shall obtain a certificate of exemption from such authority and in such manner as may be prescribed.

35. If religious classes are held in any elementary school in an area to which the provisions of this chapter have been applied, no child shall be compelled to attend such classes against the wishes of its parent.

36. No person shall, without the permission of the Education Department in writing, employ during school hours any child who is required to attend an elementary school under this chapter.

37. (1) A parent who without lawful excuse fails to send to an elementary school any child who is required to attend school under this chapter, shall, after due warning in such manner and by such authority as may be prescribed, be liable on conviction by a Magistrate to a fine not exceeding two rupees, and to a fine not exceeding ten rupees, for a second or subsequent conviction.

(2) For the purposes of sub-section (1), a parent shall be deemed to have failed to send the child to an elementary school without lawful excuse where the child is continuously absent from school for one month without permission.

38. Any person, who knowingly employs any child in contravention of the provisions of section 36, shall on conviction by a Magistrate, be liable to a fine not exceeding twenty rupees.

39. The Government may, for carrying out the provisions of this chapter effectively, appoint one or more officers or committees for such areas with such powers and duties as may be prescribed.]

[1] CHAPTER VIII.

MISCELLANEOUS.

Power to delegate powers under this Act.

40. The Government may delegate any of its powers under this Act to the Director of Public Instruction.

1. Chapter VIII and sections 40 to 43 renumbered by Act XXXII of 1944.

(*Schedule*)

41. The Government may for any of the purposes of this Act declare any school providing elementary education, and not established or maintained by it, to be an elementary school and thereupon all the provisions of this Act shall apply to that school as if it were an elementary school.

Declaration of school not established or maintained by the Government to be an elementary school.

42. (1) The Government may make rules to carry out all or any of the purposes of this Act.

Powers to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(i) the levy of education cess under section 9 ;
(ii) the manner of election to, and the working of, the District Education Committees and the Central Education Board including their expenditure ;
(iii) the manner of electing a Chairman to a District Education Committee where the election of a Chairman is authorised ;
(iv) the term of the Central Education Board ;
(v) re-admission fees, medical inspection and fees for such medical inspection or for promoting civic and physical training of children ;
(vi) the authority and the manner of issuing certificates of exemption ; and
(vii) the authority and the manner of issuing a warning to a parent under section 29.

43. The Government shall cause a comprehensive statement on working of the Act to be placed before the Houses of Legislature once a year.

Comprehensive statement to be presented to the Legislatures annually.

[1] Schedule.

Items on which cess may be levied	Maximum rate of levy
Items on which local cess is now levied ..	9 pies in the rupee.
Tax levied under any Act or Rule constituting Local Bodies :	2 annas in the rupee.
(1) tax on buildings and lands ;	
(2) taxes on vehicles and animals ;	
(3) Profession tax or shop tax.	

1. Substituted by Act VI of 1944.

MYSORE ACT No. XIV OF 1941

[1]THE HOME GUARDS ACT, 1941.

(AS AMENDED BY ACT XXXV OF 1948.)

(Received the assent of His Highness the Maharaja on the sixteenth day of July 1941.)

An Act to provide for the constitution of Home Guards in [2][State of Mysore except Bellary District.]

WHEREAS it is expedient to provide for the constitution of Home Guards in [2][State of Mysore except Bellary District];

It is hereby enacted as follows :—

Short title, extent and commencement.

1. [1][(1) This Act may be called the Home Guards Act, 1941.]

(2) It extends to the [2][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Constitution of Home Guards.

2. The District Magistrate of a district may constitute for that district a body to be called the [1][home guard,] the members of which shall discharge such functions in relation to the protection of persons, the security of property or the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

Appointment of members.

3. The District Magistrate of a district may appoint as members of the [1][home guard] so many persons, who are fit and willing to serve as such, as he is authorised by the Government to appoint and may appoint any such member to any office of command in the [1][home guard.]

Functions of members.

4. The District Magistrate of a district may at any time call out a member of the [1][home guard] for training or to discharge any of the functions assigned to the [1][home guard] in accordance with the provisions of this Act and the rules made thereunder.

Powers, protection and control.

5. (1) A member of the [1][home guard] when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any law for the time being in force.

(2) No prosecution shall be instituted against a member of the [1][home guard] in respect of anything done

1. Substituted by Act XXXV of 1948.
2. See the Mysore Adaptation of Laws Order, 1953.

or purporting to be done by him in the discharge of his functions as such member, except with the previous sanction of the District Magistrate.

Control by officers of police force.

6. The members of the [1][home guard] when called out under section 4, directly in aid of the police force, shall be under the control of the officers of such force, in such manner and to such extent as may be prescribed by rules made under section 8.

Penalty.

7. If any member of a [1][home guard,] on being called out under section 4, without sufficient excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the [1][home guard,] or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent court, be punishable with fine which may extend to fifty rupees.

Rules.

8. The Government may make rules consistent with this Act—

(*a*) providing for the exercise by any police officer or other servant of the Government of the powers conferred on the District Magistrate by section 4 of this Act;

(*b*) providing for the exercise of control by officers of the police force over members of the [1][home guard] when acting directly in aid of the police force;

(*c*) regulating the organization, appointment, conditions of service, duties, discipline, arms, accoutrements, and clothing of members of the [1][home guard] and the manner in which they may be called out for service;

(d) conferring on members of the [1][home guard] according to their office any powers, other than magisterial or judicial powers, exercisable by any person under any Act;

(*e*) generally for giving effect to provisions of this Act.

9. The Home Guards (Emergency) Act, 1940, continued by the Home Guards (Emergency Continuance) Act, 1941, is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 5th day of November 1940.

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1. Substituted by Act XXXV of 1948.

MYSORE ACT No. XVI OF 1941.

THE MYSORE EUROPEAN BRITISH SUBJECTS REINSTATEMENT, ACT, 1941.

(AS AMENDED BY ACTS V OF 1942 AND I OF 1946.)

(Received the assent of His Highness the Maharaja on the sixteenth day of July 1941.)

WHEREAS the National Service (European British Subjects) Act, 1940, has been enacted and passed into law in British India to make provision relating to service by European British Subjects in the armed Forces of His Majesty the King-Emperor and in civilian employment:

AND WHEREAS it is expedient to make provision for the reinstatement by their employers in [1][State of Mysore except Bellary District] of European British Subjects so called up for service;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Mysore European British Subjects Reinstatement Act, 1941.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,

(i) "tribunal" means a tribunal constituted under section 9 of the Act; and

(ii) "the Act" means the National Service (European British Subjects) Act, 1940 (Act XVIII of 1940) of the Central Legislature of India.

Reinstatement.

3. [2][(1) It shall be the duty of any employer by whom a person who has been called up under the Act for National Service or by whom a European British Subject who has been called up for service in the Reserve of His Majesty

1. See the Mysore Adaptation of Laws Order, 1958.
2. Renumbered as sub-section (1) by Act V of 1942.

the King-Emperor's Regular Naval, Military, or Air Forces at any time after the 2nd day of September 1939, and before the termination of the present hostilities, or by whom a person subject to the Act who, with the consent of his employers, was between the 2nd day of September 1939, and the coming into force of the Act, granted an emergency commission or enlisted in His Majesty the King-Emperor's armed forces or accepted for training as a cadet at an officers' training school, was employed, to reinstate him in his employment [1][at the termination of his national service or service in the armed forces, or training as a cadet where such training is not followed by service in the armed forces, as the case may be,] in an occupation and under conditions not less favourable to him than those which would have been applicable to him [1][had his employment not been so interrupted.]

[1][Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person or if for any reason the reinstatement of such person,] is represented by the employer or be impracticable, he may refer the matter to a tribunal and that tribunal shall, on such reference by the employer or on a reference by an European British Subject under the Act and after consideration pass an order either exempting the employer from the provisions of this section or requiring him to re-employ such person [2] on such terms as it thinks suitable, or requiring him to pay to such person [2] a sum in compensation for failure to re-employ, not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer; and if any employer fails to obey the order of the tribunal, he shall be punishable with a fine which may extend to one thousand rupees; and the Court by which an employer is convicted under this section may order him (if he has not already been so required by the tribunal) to pay the person whom he has failed to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required by the tribunal to be paid or so ordered by the Court to be paid shall be recoverable as if it were a fine imposed by such Court:

1. Substituted by Act V of 1942.
2. The words "or member" omitted by Act V of 1942.

Provided further that in any proceedings under this section, it shall be a defence for an employer to prove that the person formerly employed by him did not apply to the employer for reinstatement within a period of two months [1][from the termination of his national service or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be.]

[2][(2) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up or taken into service, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the issue of a notice under sub-section (1) of section 4 of the Act upon such person.]

[3][(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall not be extinguished or affected by the fact that such person is, while serving in the capacity by virtue of such duty was incurred by the employer, temporarily assigned to any employment under the Crown; nor shall any such assignment be deemed to have terminated or interrupted his service in the capacity by virtue of which such duty was incurred by the employer.]

Reservation of certain rights of persons called up for national service.

4. (*a*) When any person is called up under the Act for service in a specified civilian capacity, and his terms of service in such capacity have been laid down by the competent authority subject to certain prescribed conditions for the preservation of any rights which the person called up may have under any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, it shall be the duty of his employer to preserve such rights.

1. Substituted by Act V of 1942.
2. Added by Act V of 1942.
3. Added by Act I of 1946.

(*b*) When any person called up under the Act for service in one of the Forces of His Majesty the King-Emperor has any rights under any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, it shall be the duty of his employer to preserve so long as such person remains in the Forces of His Majesty the King-Emperor [1][or in any other employment under the crown to which he may be temporarily assigned while serving in those Forces] in respect of such fund or scheme such rights as may be prescribed.

Explanation.—In this section, "competent authority" shall carry the same meaning as in the Act, and "prescribed" shall mean prescribed by rules made under this Act or the Act.

Procedure.

5. No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

Service of notices.

6. Any notice to be served on any person for the purposes of this Act may be sent by post addressed to that person at his last known address.

Power to make rules.

7. (1) The Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

(2) In making any such rule under this section, the Government may provide that a contravention of the rule shall be punishable with imprisonment for any term not exceeding six months or with fine not exceeding Rs. 1,000 or with both.

Repeal.

8. The Mysore European British Subjects (Reinstatement Emergency) Act, 1941 (VIII of 1941) is hereby repealed.

1. Inserted by Act I of 1946.

MYSORE ACT No. XVII OF 1941

THE RAILWAY LANDS (EMPLOYMENT OF FOREIGN FORCES) ACT, 1941.

(*Received the assent of His Highness the Maharaja on the sixteenth day of July* 1941.)

WHEREAS it is expedient to give protection to Foreign Forces when engaged in the maintenance of public order in, or in the protection of, railway lands in [1][State of Mysore except Bellary District]; It is hereby enacted as follows:—

1. (1) This Act may be called the Railway Lands (Employment of Foreign Forces) Act, 1941.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

2. Whenever a military Force of British India or of another Indian State is, with the authority of the Government of His Highness the Maharaja, engaged in the maintenance of public order in, or in the protection of, any railway lands in [1][State of Mysore except Bellary District]—

(*a*) every member of such Force may take such steps and use such force as may be necessary for the prevention of any act done, or likely to be done, with intent to impair the efficiency or impede the work of, or to cause damage to, any railway, any machinery, apparatus or other thing used on the railway or in the railway lands or any building or other property in the railway lands;

(*b*) when a Magistrate determines to disperse any unlawful assembly by military force, he may require any commissioned or non-commissioned officer of such Force to disperse the assembly by military force and to arrest and confine such persons forming part of it as the Magistrate may direct or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law, and every such officer shall obey such requisition in such manner as he thinks fit but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons; and

1. See the Mysore Adaptation of Laws Order, 1958.

(*c*) when the public security is manifestly endangered by any unlawful assembly and when no Magistrate can be communicated with, any commissioned officer of such Force may disperse the assembly by military force and may arrest and confine any persons forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is so acting it becomes practicable for him to communicate with a Magistrate, he shall do so and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

3. Whenever a Police Force constituted in British India or in an Indian State or in Civil and Military Station, Bangalore, is, with the authority of the Government of His Highness the Maharaja, engaged in the maintenance of public order in or in the protection of any railway lands in [1][State of Mysore except Bellary District]—

(*a*) every member of such Police Force shall be deemed to be—

(i) a public servant for the purposes of the Indian Penal Code, as in force in [1][State of Mysore except Bellary District], or of any other law for the time being in force in [1][State of Mysore except Bellary District], and

(ii) a police officer for the purposes of Chapters V, IX and XIII (excepting section 153) of the Code of Criminal Procedure, 1904, and section 113 of the Mysore Railway Act, 1894; and

(*b*) every member of such Police Force, not below the rank which corresponds to that of a Sub-Inspector of Police in [1][State of Mysore except Bellary District], shall be deemed to be an officer in charge of a police station for the purposes of sections 55, 56, 62, 127 and 128 of the Code of Criminal Procedure, 1904.

4. No suit, prosecution or other legal proceeding shall lie against any member of any military force of British India or of an Indian State or of any police force constituted in British India or in an Indian State or in the Civil and Military Station, Bangalore, for anything done in good faith in pursuance of, or in the exercise of powers conferred by, this Act.

1. See the Mysore Adaptation of Laws Order, 1953.

MYSORE ACT No. XXII OF 1942.

THE MYSORE WAR INJURIES ACT, 1942.

(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)

An Act to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities.

WHEREAS it is expedient to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore War Injuries Act, 1942.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " civil defence organisation " means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purposes of this Act and the scheme ;

(2) " civil defence volunteer ", in relation to an injury, means a person certified, by an officer of a civil defence organisation authorised by the Government to grant such certificates, to have been a member of that organisation at the time the injury was sustained ;

(3) " continuance of the present hostilities " means the period beginning with the commencement of this Act and ending with such date as the Government may, by notification in the official Gazette, declare to be the date on which the present hostilities terminated ;

(4) " gainfully occupied person " means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though

1. See the Mysore Adaptation of Laws Order, 1958.

temporarily unemployed, is normally so engaged and dependent;

(5) "scheme" means a scheme made under this Act;

(6) "war injury" means a physical injury—

(*a*) caused by—

(i) the discharge of any missile (including liquids and gas), or

(ii) the use of any weapon, explosive or other noxious thing, or

(iii) the doing of any other injurious act,

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(*b*) caused by the impact on any person or property of any enemy aircraft, or any aircraft, belonging to or held by any person on behalf of or for the benefit of His Majesty the King Emperor or of His Highness the Maharaja or any allied power, or any part of, or anything dropped from any such aircraft;

(7) "war service injury", in relation to a civil defence volunteer, means any physical injury shown to the satisfaction of the Government or other authority authorised to make payments under a scheme to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity:

Provided that before being so satisfied the Government or any other authority authorised to make payments under a scheme shall have received from the civil defence organisation of which the volunteer concerned was a member at the time the injury was sustained, a report, by an officer of the organisation authorised by the Government to make such reports, about the injury in question.

Power to make schemes for relief in respect of war injuries and war service injuries.

3. (1) The Government may make a scheme or schemes in accordance with the provisions of this Act providing for the grant of relief in respect of the following injuries sustained during the continuance of the present hostilities, namely:—

(*a*) war injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified

in the scheme) and by persons of such other classes as may be so specified; and

(*b*) war service injuries sustained by civil defence volunteers.

(2) A scheme may authorise the Government or any authority authorised by the Government to make payments under the scheme, in such circumstances and subject to such conditions as may be specified in the scheme, to make to or in respect of persons injured—

(*a*) payments by way of temporary allowance, which shall be payable only so long as the person injured is incapacitated for work by the injury and has not received any such payment as is mentioned in clause (*b*);

(*b*) payments otherwise than by way of temporary allowance, which shall be payable only where the injury causes serious and prolonged disablement or death; and

(*c*) payments for the purchase of or the grant at the cost of the Government of artificial limbs or surgical or other appliances, and payments for medical and surgical treatment.

(3) A scheme may empower the Government to make rules for giving effect to the purposes of the scheme.

(4) A scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(5) A scheme may be amended or rescinded at any time by the Government.

(6) Any decision of the Government or other authority empowered to make payments under a scheme as to the making, refusal or amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied from time to time by a subsequent decision of the Government or such authority, as the case may be, but save in so far as it is so varied shall be final and conclusive.

Relief from liability to pay compensation or damages.

4. (1) In respect of a war injury sustained during the continuance of the present hostilities by any person, and in respect of a war service injury sustained during that period by a civil defence volunteer, no such compensation or damages shall be payable, whether to the person

injured or to any other person, as apart from the provisions of this sub-section—

(*a*) would be payable under the Workmen's Compensation Act, 1928 ; or

(*b*) would, whether by virtue of any enactment or by virtue of any contract or of common law, be payable—

(i) in the case of a war injury, by any person, or

(ii) in the case of a war service injury sustained by a civil defence volunteer, by the employer of the volunteer, or by any person who has responsibility in connection with the volunteer's duties as such or by any other civil defence volunteer,

on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) The failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury, if—

(*a*) an application for the payment under a scheme has been duly made to the Government or other authority empowered to make payments under the scheme in respect of the injury ; and

(*b*) the Court or other authority before which proceedings are brought is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the scheme ; and

(*c*) the Government or other authority empowered to make payments under the scheme certifies that the application was rejected, or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury ; and

(*d*) the proceedings are commenced within one month from the date of the said certificate.

Information as to earnings.

5. (1) Where it is necessary in order to determine the amount of any payment to be awarded under a scheme in respect of any injury, to ascertain the earnings of the person injured in respect of any period before he sustained

the injury, the Government or other authority authorised to make payments under the scheme may, by notice in writing, require—

(*a*) any person who was an employer of the injured person during that period; or

(*b*) any other person having any knowledge with respect to the financial circumstances of the injured person during that period,

to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing entries with respect to those earnings.

(2) If any person—

(*a*) fails to comply with the requirements of any such notice, or

(*b*) in purported compliance with any such notice, knowingly or recklessly makes any untrue statement or untrue representation, or produces any document which is false in a material particular or calculated to deceive,

he shall be punishable with fine which may extend to three hundred rupees.

Medical attention in dispensaries and hospitals.

5-A. (1) The person managing any dispensary or hospital shall, if so required by the Government by general or special order,—

(*a*) provide at the dispensary or hospital medical and surgical treatment for persons who have sustained injuries of the nature specified in sub-section (1) of section 3, and

(*b*) keep such records and make such returns relating to the persons treated for such injuries as may be required by or under a scheme.

(2) If any person fails to comply, when so required, with the provisions of this section, he shall be punishable with fine which may extend to one thousand rupees.

Penalty for false statement.

6. Any person who, for the purpose of obtaining a payment or grant under a scheme either for himself or for any other person, knowingly makes any untrue statement or untrue representation, shall be punishable with imprisonment for a term which may extend to three months.

Assignments or charges to be void.

7. Any assignment of, or charge on, and any agreement to assign or charge any payment awarded or to be awarded under a scheme shall be void, and on the insolvency of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or other person acting on behalf of the creditors.

Repeal and savings.

8. The Mysore War Injuries (Emergency) Act, 1942, (XV of 1942) is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act, as if this Act had commenced on the 21st day of January 1942.

MYSORE ACT No. XXIII OF 1942.

THE ESSENTIAL SERVICES (MAINTENANCE) ACT, 1942.

ARRANGEMENT OF SECTIONS.

1. Short title, extent and commencement.

2. Interpretation.

3. Employment to which this Ordinance applies.

4. Power to order persons engaged in certain employments to remain in specified areas.

5. Offences.

6. Regulation of wages and conditions of service.

7. Penalties and procedure.

8. Bar of legal proceedings

9. Effect of orders, rules, etc., made under this Act.

10. Repeal and savings.

MYSORE ACT No. XXIII OF 1942.

THE ESSENTIAL SERVICES (MAINTENANCE) ACT, 1942.

(AS AMENDED BY ACT XXV OF 1943.)

(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)

WHEREAS it is expedient to make provision for the maintenance of certain essential services; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Essential Services (Maintenance) Act, 1942.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Interpretation.

2. In this Act unless there is anything repugnant in the subject or context, "employment" includes employment of any nature and whether paid or unpaid.

Employment to which this Ordinance[2] applies.

3. This Act shall apply to all employment under the Government and to any employment or class of employment which the Government, being of opinion that such employment or class of employment is essential for securing the defence of India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies or services necessary to the life of the community, may, by notification in the official Gazette, declare to be an employment or class of employment to which this Act applies.

Power to order persons engaged in certain employments to remain in specified areas.

4. (1) In respect of any employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies, the Government making the declaration, or an officer authorised in this behalf by that Government may, by

1. See the Mysore Adaptation of Laws Order, 1958.
2. *Sic.* should be "Act". Reference to Act has not been made by inadvertence.

general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(2) An order made under sub-section (1) shall be published in such manner as the Government or officer making the order considers best calculated to bring it to the notice of the persons affected by the order.

Offences.

5. Any person engaged in any employment or class of employment to which this Act applies who—

(*a*) disobeys any lawful order given to him in the course of such employment, or

(*b*) without reasonable excuse abandons such employment or absents himself from work, or

(*c*) departs from any area specified in an order under sub-section (1) of section 4 without the consent of the authority making that order,

and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies, who without reasonable cause—

(*i*) discontinues the employment of such person, or

(*ii*) by closing an establishment in which such person is engaged, causes the discontinuance of his employment, is guilty of an offence under this Act.

[1][*Explanation* 1.—The fact that a person apprehends that by continuing in his employment he will be exposed to increased physical danger was not a reasonable excuse within the meaning of clause (*b*).

Explanation 2.—A person abandons his employment within the meaning of clause (*b*) who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.]

1. Explanations 1 and 2 added by Act XXV of 1943.

Regulation of wages and conditions of service.

6. (1) The Government may make rules regulating or empowering a specified authority to regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment or class of employment declared under section 3 to be an employment or class of employment to which this Act applies.

(2) When any such rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Act.

Penalties and procedure.

7. (1) Any person found guilty of an offence under this Act shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Where the person accused of an offence under this Act is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

(3) No Court shall take cognizance of any offence under this Act, except upon complaint in writing made by the Government or by a person authorised in this behalf by the Government.

[1][(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1904, an offence under this Act shall be cognizable.]

Bar of legal proceedings.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Effect of orders, rules, etc., made under this Act.

[2][**9.** Nothing contained in this Act or in any declaration or order made thereunder shall have effect in derogation of any provision of law for the time being in force imposing upon a person engaged in an employment or

1. Sub-section 4 added by Act XXV of 1943.
2. Section 9 substituted by Act XXV of 1943.

class of employment to which this Act applies any liability to be called up for national service or to undertake employment in the national service.]

Repeal and savings.

10. The Essential Services (Maintenance) (Emergency) Act, 1942 (XXVI of 1942), is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act had commenced on the 20th day of February 1942.

MYSORE ACT No. XXIV OF 1942.

THE SPECIAL CRIMINAL COURTS ACT, 1942.

(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)

WHEREAS it is expedient to make provision for the setting up of Special Criminal Courts ;

It is hereby enacted as follows :—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal Courts Act, 1942.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force in any part of [1][the State of Mysore except Bellary District] only if the Government, by notification in the official Gazette, declares it to be in force in such area and shall cease to be in force when such notification is rescinded :

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

2. Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely :—

(i) Special Judges ;
(ii) Special Magistrates ;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1904 (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by

1. See the Mysore Adaptation of Laws Order, 1953.

the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of subsection (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any senttnce authorised by law.

Reviews of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death, as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate ; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeal.

12. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by

a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct :

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate :

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge :

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Sentences by Summary Courts

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes

a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or, in a case tried by summary procedure, passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act, or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court or superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resist his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Act, shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Powers of Special Courts to exclude the public.

21. A Court constituted under this Act may, if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal Practitioners.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

25. Notwithstanding the provisions of the Code, or of any thing having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by Special Criminal Courts constituted under this Act.

Repeal and Savings.

27. The Special Criminal Courts (Emergency) Act, 1942 (XVII of 1942), is hereby repealed.

MYSORE ACT No. XXV OF 1942.

THE PENALTIES (ENHANCEMENT) ACT, 1942.

(AS AMENDED BY ACTS XXVIII OF 1943, XIII OF 1945 AND XIII OF 1949.)

(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)

WHEREAS it is expedient to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) Act, 1942.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once; but sections 3 to 7 inclusive, shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time, by notification in the official Gazette, declare that sections [2][3 to 7A] inclusive, or any of them, or such provisions of section 4 or section 7 [2][or section 7-A] as relate to a particular offence or particular offences therein specified shall have effect throughout [1][the State of Mysore except Bellary District] or any specified area of [1][the State of Mysore except Bellary District.]

Punishment for theft.

3. Whooever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act XXVIII of 1943.

consequence of war operations, shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years.[1]

Explanation.—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore, or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 386, 387, 392, 393, 399, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 386 or section 387 or section 392 or section 393 or section 399 or section 435 or section 436 of the Indian Penal Code as in force in Mysore, may, in lieu of any punishment to which he is liable under the said Code, be punished with death.[1]

Punishment for contravention of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions [2][for the time being in force] of rule 35 of the Defence of India Rules as applied to Mysore, [2][or is deemed under rule 121 of the said rules to have contravened any such provision], may, in lieu of any punishment to which he is liable under [3][the said rules], be punished with death.[1]

Punishment for offences under sections 376, 380, 382, 394 or 395, Indian Penal Code.

6. Whoever commits an offence punishable under section 376 or section 380 or section 382 or section 394 or section 395 of the Indian Penal Code as in force in Mysore, may, in lieu of any punishment to which he is liable under the said Code be punished with death.[1]

[4][**7.** * * *

Punishment of offences under sections 3, 4 and 5 of Act VI of 1908 of the Government of India.

[5][**7-A.** Whoever commits an offence punishable under section 3 or section 4 or section 5 of the Explosive Substances Act, 1908, as applied to Mysore, may in lieu of any punishment to which he is liable under the said Act, be punished with death.[2]

1. Certain words omtted by Act XIII of 1949.
2. Inserted by Act XXVIII of 1943.
3. Substituted by the Act XXVIII of 1943.
4. Section 7 repealed by Act XIII of 1949.
5. Inserted by Act XXVIII of 1943.

Punishment for attempts to commit and abetment of offences.

7-B. Whoever attempts to commit, or abets, or attempts to abet, or does any act preparatory to the commission of any offence referred to in sections 3, 4, 6, 7 or 7-A shall, notwithstanding anything contained in the Indian Penal Code as in force in Mysore, be punishable with the punishment provided for the commission of the offence.]

Saving.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

Repeal.

9. The Penalties Enhancement (Emergency) Act, 1942 (XVIII of 1942), is hereby repealed.

MYSORE ACT No. XXXVII 1942.

(*Promulgated by His Highness the Maharaja on the 27th day of August* 1942.)

An Act to provide for the application of State Laws to the lands occupied by the Yeswantapur-Harihar line of the Mysore State Railways and for transitional arrangements in respect of proceedings and other matters pending in Courts on the date of the retrocession of jurisdiction over the said lands to His Highness the Maharaja.

(AS AMENDED BY ACT XLI OF 1942.)

Preamble. Whereas His Excellency the Crown Representative has retroceded to His Highness the Maharaja jurisdiction of every kind over that portion of the Mysore State Railways which lies within the territory of the State from Yeswantapur exclusive of the Railway Station to the Hubli end of the Tungabhadra bridge at Harihar, and it is necessary to provide for the application of State Laws to the lands occupied by the aforesaid line and to make provision for transitional arrangements in respect of proceedings and other matters which have arisen within the said lands and which are pending on the date of retrocession in the Courts of the Civil and Military Station of Bangalore :

His Highness the Maharaja has been pleased to enact as follows :—

Title. **1.** This Act may be called an Act to provide for the application of State Laws to the lands occupied by the Yeswantapur-Harihar line of the Mysore State Railways and for transitional arrangements in respect of proceedings and other matters pending in Courts on the date of retrocession.

Commencement and extent. **2.** (1) It shall come into force on 27th August 1942.

(2) It applies to all lands (including the lands occupied as stations, out-buildings and for other railway purposes) occupied by the Mysore State Railways from Yeswantapur exclusive of the Railway Station to the Hubli end of the Tungabhadra bridge at Harihar.

Application of State Laws.

3. All laws for the time being in force in the Mysore State shall be deemed to be in force in the aforesaid lands.

Pending civil matters.

4. All civil suits and proceedings of whatever nature initiated and pending before the Courts in the Civil and Military Station, Bangalore, on the date of retrocession, shall be deemed to be suits and proceedings taken cognizance of by and pending in Courts of Mysore and may be continued in Mysore Courts of competent jurisdiction, as may be notified by the Government, from the stages at which such suits and proceedings were pending.

Pending criminal matters.

5. All criminal cases and proceedings taken cognizance of by and pending before the Criminal Courts in the Civil and Military Station, Bangalore, on the date of retrocession, shall be deemed to be cases and proceedings taken cognizance of by and pending in Courts of Mysore and may be continued in Mysore Courts of competent jurisdiction, as may be notified by the Government, from the stages at which such cases and proceedings were pending :

Provided, however, that nothing in this section shall affect the provision of Section 350 of the Code of Criminal Procedure.

Pending appeals, etc.

6. All appeals, applications for revision, and other proceedings, civil as well as criminal, pending in the appellate Courts or the Resident's Court of the Civil and Military Station, Bangalore, on the date of retrocession shall be deemed to be appeals, applications or proceedings pending in the corresponding appellate Courts or the High Court in Mysore, as the case may be, and may be continued in such appellate Courts of competent jurisdiction, as may be notified by the Government, or by the High Court, from the stages at which such cases, applications or proceedings were pending :

Provided, however, that nothing in this section shall affect the appeals from the Resident's Court pending before His Majesty in Council.

Appeals, etc., to lie to Mysore Courts after retrocession.

7. All appeals, references, applications for revision or review, applications for execution and all miscellaneous applications connected with judgments, decrees, orders or cases, civil or criminal, of courts having jurisdiction prior

to retrocession and in respect of which no appeals, references or applications have been filed or made will lie to Courts of competent jurisdiction in Mysore to which such appeals, references or applications would lie if the said judgments, decrees, orders or cases were of corresponding Courts in Mysore subject to the law of limitation as was in force in the Civil and Military Station, Bangalore, prior to retrocession, being applicable to such appeals, references or applications.

Law applicable to pending matters.

8. All civil suits and proceedings and criminal cases and proceedings commenced and pending in the Courts of the Civil and Military Station, Bangalore, on the date of retrocession, and all appeals, references and applications connected with suits, cases and proceedings in the said Courts prior to retrocession shall be decided by the Mysore Courts applying the law which was in force in the Civil and Military Station, Bangalore, at the time the suits, cases or proceedings were initiated, as far as altered circumstances will permit.

Power to appoint a First Class Magistrate.

9. Notwithstanding anything contained in the Criminal Procedure Code, 1904, the Government may appoint a Magistrate of the First Class with jurisdiction over the whole or any part of the lands to which this Act applies, and determine to which District Magistrate he shall be subordinate and the Sessions Division in which the lands may be included.

[1][**10.** For purposes of Section 177 of the Code of Criminal Procedure, 1904, offences committed prior to the date of retrocession shall be deemed to be offences committed within the local limits of Mysore Courts of competent jurisdiction.]

1. Added by Act XLI of 1942.

MYSORE ACT No. I OF 1943.

THE CUTCHI MEMON ACT, 1943.

(Received the assent of His Highness the Maharaja on the thirty-first day of December 1942.)

Whereas it is expedient that all Cutchi Memons be governed, in matters of succession and inheritance, by the Mohammadan Law :

It is hereby enacted as follows :--

Short title and commencement.

1. (1) This Act may be called the Cutchi Memon Act, 1943.

(2) It shall come into force on the first day of July 1943.

Cutchi Memons to be governed in certain matters by Mohammadan Law.

2. Subject to the provisions of section 3, all Cutchi Memons shall, in matters of succession and inheritance, be governed by Mohammadan Law.

Savings.

3. Nothing in this Act shall affect any right or liability acquired or incurred before its commencement, or any legal proceeding or remedy in respect of any such right or liability and any such proceeding or remedy may be continued or enforced as if this Act had not been passed.

MYSORE ACT No. VII OF 1943.

THE MYSORE WAR RISKS (GOODS) INSURANCE ACT, 1943.

(AS AMENDED BY ACTS XXIV OF 1943 AND XXX OF 1946)

(Received the assent of His Highness the Maharaja on the seventh day of January 1943.)

An Act to make certain Provisions for the Insurance of Goods in [1][the State of Mysore except Bellary District] against Damage by Enemy Action.

WHEREAS it is expedient to make certain provisions for the insurance of goods in [1][the State of Mysore except Bellary District] against damage by enemy action; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (i) This Act may be called the Mysore War Risks (Goods) Insurance Act, 1943.

(ii) It extends to the whole of [1][the State of Mysore except Bellary District].

(iii) It shall come into force at once.

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) "agricultural products" means products of agriculture, horticulture or sylviculture and includes growing crops, plants and trees;

(*b*) "goods" means any materials, commodities or articles and includes materials or articles used in or for the construction of ships up to the time at which a ship after construction is launched;

(*c*) "war risks" means such risks arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy,

(ii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether acci-

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1. See the Mysore Adaptation of Laws Order, 1958.

dentally or not) as the direct result of any such action as aforesaid,

(iii) precautionary or preparatory measures taken under the proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving a substantial degree of risk to property,

(iv) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property,

(v) precautionary or preparatory measures taken under proper authority with a view to denying facilities to the enemy, being measures involving a substantial degree of damage to, or diminution of the value of property,

as may be prescribed ;

(*d*) " live-stock " includes animals of any description ;

(*e*) " prescribed " means prescribed by rules made under this Act ;

(*f*) " seller of goods " includes a seller of goods acting as an agent, and, in relation to any person carrying on the business of selling goods, as an agent, any reference in this Act to goods produced by him or to goods not produced by him shall be construed as including a reference to goods produced, or as the case may be, not produced by his principal.

Goods insurable under this Act.

3. (1) Subject to the provisions of this section—

(*a*) the following goods shall, in relation to any person carrying on business in [1][the State of Mysore except Bellary District] as a seller of goods of any description produced by him, be deemed to be goods insurable under this Act, that is to say, all goods situated in [1][the State of Mysore except Bellary District] being either—

(i) goods of that description, or

(ii) goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description ; and

(*b*) the following goods shall, in relation to any person carrying on business in [1][the State of Mysore except

1. See the Mysore Adaptation of Laws Order, 1953.

Bellary District] as a seller of goods of any description not produced by him, be deemed to be goods insurable under this Act, that is to say, all goods of that description being goods situated in [1][the State of Mysore except Bellary District].

(2) In relation to a person carrying on in [1][the State of Mysore except Bellary District] the business of selling agricultural products produced by him, all agricultural products and live-stock for the time being situated in [1][the State of Mysore except Bellary District] shall, subject to the following provisions of this section, be deemed to be goods insurable under this Act :

Provided that the Government may, by general or special order, direct that the provisions of section 6 shall not operate so as to require a person to be insured in respect of any goods which, in relation to that person would not, apart from the provisions of this sub-section, be goods insurable under this Act.

(3) Things which, in relation to a person carrying on any business as a seller of goods, are at any time goods insurable under this Act shall not cease to be goods so insurable by reason only that they are subsequently placed in or affixed to land under a contract of sale entered into by that person in course of that business.

(4) The Government may, by notification in the official Gazette, direct that goods of any description specified in the notification shall, notwithstanding anything contained in this section, be deemed not to be goods insurable under this Act.

Ownership.

4. (1) Save in so far as is otherwise expressly provided in this Act, any goods shall, subject to the provisions of this section, be deemed for the purposes of this Act to be owned—

(*a*) if the property in the goods is for the time being vested in a person in relation to whom they are insurable under this Act, by that person ;

(*b*) if the property in the goods is not so vested, by any person in relation to whom the goods are insurable under this Act and who is for the time being entitled, either unconditionally, or condi-

1. See the Mysore Adaptation of Laws Order, 1952.

tionally to have the property in the goods vested in him :

Provided that where—

(i) any goods would, under the foregoing provisions of this sub-section, be deemed to be owned by a person in whom the property therein is vested otherwise than in the course of a business carried on by him in [1][the State of Mysore except Bellary District] or who is entitled to have the property therein vested in him otherwise than in the course of such a business, and

(ii) any person carrying on business in [1][the State of Mysore except Bellary District] is for the time being entitled to sell the goods as agent,

the goods shall be deemed to be owned by the last mentioned person.

(2) Where in the course of any business, a ship is being, or has been constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof—

(*a*) would, apart from the provisions of this sub-section, have been deemed for the purposes of this Act to be owned at any time by the person from time to time carrying on the business, or

(*b*) have at any time been accepted, in pursuance of a contract made with him by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of sub-section (3), be deemed, in a case to which clause (*a*) applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being, or has been, constructed and in a case to which clause (*b*) applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said

1. See the Mysore Adaptation of Laws Order, 1959.

clause (b) and the acceptance of the ship as aforsaid by the person for whom it is being, or has been, constructed.

(3) The provisions of sub-section (2) shall apply in relation to the construction under contract in the course of a business, of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship—

(*a*) with the substitution for references to a ship of references to part of a ship ;

(*b*) where the contract for the part of the ship is with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof ;

(*c*) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

(4) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the War Risks (Goods) Insurance Scheme of the Government of India, in respect of the loss of or damage to a ship, part of a ship or goods which are deemed to be owned by him by virtue of sub-section (2) or sub-section (3), the money shall be held by him on trust for the person who, apart from the provisions of these sub-sections, would be deemed for the purposes of this Act to be the owner of the ship, part or goods, subject however, to any lien or charge which would otherwise be enforceable against the ship, part or goods, and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first mentioned person in making good any part of the loss or damage which he is liable to make good.

[1] [5 6 * * *]

[2][6A. (i) Without prejudice to the provisions of sub-section (2) of section 6 where any person has failed to

1. Sections 5 and 6 omitted by Act XXX of 1946.
2. Inserted by Act XXIV of 1943.

insure as, or to the full amount, required by this Act and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Government may determine the amount, payment of which has been so evaded. The amount so determined shall be payable by such person and shall be recoverable from him as an arrear of land revenue and shall be the first charge on the property in respect of which the default was made.

(ii) The person against whom a determination is made under sub-section (i) may, within a prescribed period, appeal against such determination to the Government or an authority appointed by the Government whose decision shall be final.]

Power to obtain information.

7. (1) Any person authorised in this behalf by the Government or the Government of India may, for the purpose of ascertaining whether or not [1][the requirements of this Act have been complied with]

(*a*) require any person carrying on in [2][the State of Mysore except Bellary District] the business of fire insurance or of a seller of goods to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(*b*) at any reasonable time enter any premises occupied by any person carrying on in [2][the State of Mysore except Bellary District] any such business and inspect the premises and require any person found therein who is for the time being in charge thereof to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in the premises or to furnish to him such information as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with a request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to five hundred rupees.

(3) Whoever in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement false in a material particular shall be

1. Substituted by Act XXIV of 1943.
2. See the Mysore Adaptation of Laws Order, 1953.

punishable with fine which may extend to one thousand rupees.

Limitations on prosecutions.

8. No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Government or an authority authorised in this behalf by the Government.

Composition of offences.

9. Any offence punishable under sub-section (2) of section 6 may, either before or after the institution of the prosecution, be compounded by the Government or the Government of India or by any authority authorised in this behalf by the Government or the Government of India on payment for credit to the War Risks (Goods) Insurance Fund established by the Government of India of such sum as the Government or the Government of India or such authority, as the case may be, thinks fit.

Bar of legal proceedings.

10. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

11. (1) The Government may, by notification in the official Gazette make rules to carry into effect the provisions of this Act.

(2) Subject to any other rules or any modification that may be made in exercise of the powers under sub-section (1) of this section, the rules for the time being in force under the Government of India's War Risks (Goods) Insurance Ordinance, 1940, shall *mutatis mutandis* be deemed to be the rules for the purposes of this Act in [1][the State of Mysore except Bellary District], and further all persons authorised by the Government of India under that Government's War Risks (Goods) Insurance Ordinance, 1940, and the rules framed thereunder for any of the purposes of that ordinance, shall be deemed to be authorised under this Act for corresponding purposes.

Repeal and Savings.

12. The Mysore War Risks (Goods) Insurance (Emergency) Act, 1942 (XXXV of 1942), is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act has commenced on the 8th day of August 1942.

1. See the Mysore Adaptation of Laws Order, 1953.

MYSORE ACT No. VIII OF 1943.

THE MYSORE SILK-WORM DISEASES CONTROL ACT, 1943.

(Received the assent of His Highness the Maharaja on the Ninth day of January 1943.)

WHEREAS it is expedient to provide for the control and eradication of silk-worm diseases in [1][the State of Mysore except Bellary District];

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Silk-Worm Diseases Control Act, 1943.

(2) It extends to the whole of [1][the State of Mysore except Bellary District.]

(3) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the provisions of this Act to such areas in [1][the State of Mysore except Bellary District] as may be specified in the said notification.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context—

(*i*) "prescribed" means prescribed by rules made under this Act;

(*ii*) "seed" means and includes seed cocoons, moths, eggs and silk-worms in the first two stages of development;

(*iii*) "seed producer" means any person engaged in all or any of the processes connected with the manufacture or disposal of seed including processes from the selection of seed cocoons to the distribution of seed;

(*iv*) "seed rearer" means any person who carries on all or any of the processes connected with the rearing of silk-worms with a view to the sale of cocoons for the purposes of seed including operations extending from the incubation of eggs to the harvesting of cocoons;

(*v*) "silk-worm disease" includes the diseases of Pebrine, Flacherie, Grasserie and Muscardine and any other disease which may be notified as such by the Government.

1. See the Mysore Adaptation of Laws Order, 1953.

Duty to furnish certain information.

3. (1) Every seed producer, seed rearer and every other person, who carries on all or any of the processes connected with the manufacture of seed or the rearing of silk-worms, shall give information forthwith in such form, if any, and with such particulars as may be prescribed, to the nearest officer authorised by the Superintendent of Sericulture to receive such information, of the occurrence to his knowledge of silk-worm disease in seed, silk-worm or moth in his premises or under his control.

(2) For the purposes of this section and in the absence of reasonable excuse, the burden of proving which shall lie upon him, every person specified in sub-section (1) shall, when any disease occurs in seed, silk-worm or moth in his premises or under his control, be deemed to have knowledge of the occurrence of such disease.

Power to take certain action.

4. (1) Any officer authorised in this behalf by the Superintendent of Sericulture may, between the hours of 6 A.M. and 6 P.M., enter upon any land, building, vehicle or place whereon or on any part of which all or any of the processes connected with the manufacture of seed or the rearing of silk-worm is being carried on or where seed, silk-worm or moth is stored, and inspect the same with a view to detecting the presence or otherwise of any silk-worm disease.

(2) Every owner, occupier or person in charge of any land, building, vehicle or place shall give all reasonable facilities to the officer authorised under sub-section (1) to inspect.

Power to enter and inspect.

5. (1) On receipt of information under section 3 or on the detection of silk-worm disease under section 4, and subject to the provisions of sub-section (2), any officer authorised in this behalf by the Superintendent of Sericulture or an officer authorised to inspect under section 4, as the case may be, may take, or cause to be taken, such steps as may be considered by him expedient or necessary to prevent the spread of the disease or to eradicate it. Such steps may include the disinfection or destruction of any seed, silk-worm, moth or of any vessel, receptacle or apparatus used in such manufacture or rearing and such other action as may be prescribed.

(2) In cases where the owner or person in charge of the seed, silk-worm or moth alleged to be diseased does not agree to the destruction under sub-section (1), of such seed, silk-worm or moth or any vessel, receptacle or

apparatus used by him, then an appeal shall lie to an officer authorised in this behalf by the Superintendent of Sericulture, not being below the rank of senior Sericultural Inspector, in such manner as may be prescribed, and in any case, not later than 24 hours after action is directed to be taken under sub-section (1). The order of the appellate authority shall be final.

Penalty.

6. Any person, who acts in contravention of, or fails to comply with, any of the provisions of this Act shall, on conviction, be punishable with fine which may extend to Rs. 200. The Court may in its discretion direct that any seed, silk-worm, moth or vessel, receptacle or apparatus containing them shall be destroyed.

Limitation of prosecutions.

7. No prosecution under this Act shall be instituted without the previous sanction of the Superintendent of Sericulture.

Protection to persons acting under this Act.

8. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officers under this Act deemed to be public servants.

9. Every officer acting or purporting to act in pursuance of the provisions of this Act and rules thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code as in force in Mysore.

Power to make rules.

10. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Government may make rules for all or any of the following purposes, namely :—

(i) notifying such additional diseases, if any, which should be considered as silk-worm diseases ;

(ii) prescribing the form, if any, in which, and the particulars with which, information should be communicated under section 3 ;

(iii) prescribing the further steps, if any, which may be taken in controlling or eradicating silk-worm disease under section 5 ;

(iv) prescribing the mode and form of an appeal under sub-section (2) of section 5.

(3) The Government may also prescribe a fine not exceeding one hundred rupees for breach of any such rule.

MYSORE ACT NO. XLII OF 1943.

THE REMOVAL OF CIVIL DISABILITIES ACT, 1943.

(AS AMENDED BY ACTS IX OF 1948 AND XIV OF 1949.)

(Received the assent of His Highness the Maharaja on the 28th day of July 1943.)

An Act to provide for the Removal of Civil Disabilities among certain classes of Hindus.

WHEREAS it is increasingly felt by the Hindu community that the disabilities which are imposed by social custom and usage on certain classes of Hindus commonly known as Harijans, Untouchables or Depressed Classes and which have been in certain matters even legally recognized in the adjudication of rights and duties in civil and criminal proceedings, are repugnant to modern conditions and to ideas of justice and social solidarity, and should no longer be recognized by law or otherwise enforced ;

It is hereby enacted as follows :—

1. This Act may be called the Removal of Civil Disabilities Act, 1943.

2. It extends to the whole of [1][the State of Mysore except Bellary District.]

3. Notwithstanding any law, custom, usage or prescription to the contrary, no Hindu shall, by reason merely of his belonging to any particular community or class commonly known as Harijans, Untouchables, [2][Depressed Classes] or the like, be prevented or disabled from being appointed to any public office or [2][having access to or using] any public stream, river, pond, well (other than a pond or well exclusively belonging to a Hindu temple and to which access is at present denied to the above classes), tank, pathway, sanitary convenience or means of transport or any secular institution which the general

1. See the Mysore Adaptation of Laws Order, 1958.
2. Substituted by Act IX of 1948.

public belonging to all other Hindu classes and communities have [1][a right of access to or a right to use] or which is dedicated or maintained or licensed for the use of the general public or which is maintained or paid for, out of the funds of the State or local authority; and no Civil, Criminal or Revenue Court in adjudicating any matter or executing any order and no public or local authority in [1][conducting the affairs] entrusted to such authority shall recognize any custom, usage or [1][prescriptive right] under which it is sought to impose any civil disabilities on any person by reason of his belonging to any of the classes or communities aforesaid, or by reason of any [1][act or omission] on the part of such person which would not furnish grounds for such disability if he did not belong to such class or community.

Discrimination against Harijans, etc., prohibited.

[2][**4.** No person owning or being in charge of any secular institution referred to in section 3 shall—

(*i*) impose, or cause or suffer to be imposed, any restriction on any person belonging to any community or class referred to in section 3, or

(*ii*) do or omit to do anything, or cause or suffer anything to be done or omitted to be done, so as to result in discrimination against any person belonging to any such class or community.

"Secular institution" explained.

5. For the purposes of this Act, the expression "secular institution" includes, among others—

(*i*) any refreshment room, restaurant, cafe, coffee house, eating house, boarding house, lodging-house, choultry, hostel, hotel or any other place where persons are provided with food, drink, shelter or sleeping or other accommodation;

(*ii*) any place of public entertainment or amusement;

(*iii*) any premises where goods are sold, any laundry, any shaving or hair dressing saloon or any other place where services are rendered to the public;

(*iv*) any place or part of a place used by the general public belonging to all Hindu classes and communities for the burial, cremation or disposal otherwise,

1. Substituted by Act IX of 1948.
2. Sections 4, 5, 6 and 7 added by Act IX of 1948.

of the dead and not specially reserved or allotted for any particular Hindu class or community.

6. No dealer shall refuse to sell, or withhold from sale, any article which is kept by him for sale, to any person belonging to any community or class referred to in section 3 merely on the ground that he belongs to such community or class.

7. Whoever— Penalties.

(*i*) prevents a person belonging to any community or class referred to in section 3 from exercising any civic right or privilege to which he is entitled under this Act, or

(*ii*) molests or obstructs any such person in the exercise of any such right or privilege, or

(*iii*) contravenes the provisions of section 4,

shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, and in the case of a second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.]

[1][**8.** All offences punishable under this Act shall be cognizable.] Offences under Act to be cognizable.

1. Section 8 added by Act XIV of 1949.

MYSORE ACT No. XLIII OF 1943

THE DISSOLUTION OF MUSLIM MARRIAGE ACT, 1943.

(Received the assent of His Highness the Maharaja on the 28th day of July 1943.)

An Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Dissolution of Muslim Marriage Act, 1943.

(2) It extends to the [1][whole of the State of Mysore except Bellary District] and shall come into force from the date of its publication in the Official Gazette.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—

(*i*) that the whereabouts of the husband have not been known for a period of four years ;

(*ii*) that the husband has neglected or has failed to provide for her maintenance for a period of two years ;

(*iii*) that the husband has been sentenced to imprisonment for a period of seven years or upwards ;

(*iv*) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years ;

(*v*) that the husband was impotent at the time of marriage and continues to be so ;

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1. See the Mysore Adaptation of Laws Order, 1953.

(*vi*) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease ;

(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated :

(*viii*) that the husband treats her with cruelty, that is to say,—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(*b*) associates with women of evil repute or leads an infamous life, or

(*c*) attempts to force her to lead an immoral life, or

(*d*) disposes of her property or prevents her exercising her legal rights over it, or

(*e*) obstructs her in the observance of her religious profession or practice, or

(*f*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quoran ;

(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law :

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final ;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree ; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the

date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (*i*) of section 2 applies—

(*a*) the names and addresses of the persons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint, shall be stated in the plaint,

(*b*) notice of the suit shall be served on such persons, and

(*c*) such persons shall have the right to be heard in the suit:

Provided that the paternal uncle and brother of the husband, if any, shall be cited as party if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

(Chapter I—Preliminary)

MYSORE ACT No. XLIV OF 1943.

THE MYSORE PRISONS ACT, 1943.

(AS AMENDED BY ACT VI OF 1945)

(Received the assent of His Highness the Maharaja on the 28th day of July 1943.)

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in [1][the State of Mysore except Bellary District];

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title and extent.

1. (1) This Act may be called the Mysore Prisons Act, 1943.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

Repeal.

2. (1) On and after the twenty-eighth day of July 1943 the Prisons Act, XXVI of 1870, which was extended to Mysore by Notification of the Government of India, Foreign Department, Judicial No. 246 I. J., dated the 4th September 1879 shall be repealed.

(2) But all rules and appointments made, directions given and orders issued under the said Act shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(3) Any enactment or document referring to the said Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act—

(1) "prison" means any jail or place used permanently or temporarily under the general or special orders

1. See the Mysore Adaptation of Laws Order, 1953.

of the Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(*a*) any place for the confinement of prisoners who are exclusively in the custody of the police ;

(*b*) any place specially appointed by the Government under section 541 of the Code of Criminal Procedure, 1904 ;

(2) "criminal prisoner" means any prisoner duly committed to custody under the warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial ;

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1904 ;

(4) "civil prisoner" means any prisoner who is not a criminal prisoner ;

(5) "remission system" means the system under the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails ;

(6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder ;

(7) "Inspector-General" means the Inspector-General of Prisons : and

(8) "Prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II.

Maintenance and Officers of Prisons.

Accommodation for prisoners.

4. The Government shall provide, for the prisoners in Mysore, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

(*Chapter III—Duties of Officers*)

Inspector-General.

5. An Inspector-General shall be appointed for Mysore and shall exercise, subject to the orders of the Government, the general control and superintendence of all prisons situated in Mysore.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Government thinks necessary.

Temporary accommodation for prisoners.

7. Whenever it appears to the Inspector-General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

Duties of Officers.

Generally.

Control and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 62.

Officers not to have business dealings with prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

(Chapter III—Duties of Officers)

Officers not to be interested in prison contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest direct or indirect, in any contract for the supply of the prison ; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the Government, the Superintendent of a prison other than a central prison shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The Superintendent shall keep, or cause to be kept, the following records :—

(1) a register of prisoners admitted ;

(2) a book showing when each prisoner is to be released ;

(3) a punishment book for the entry of the punishment inflicted on prisoners for prison-offences ;

(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;

(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules under section 62.

Medical Officer.

Duties of Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Government under section 61.

(*Chapter III—Duties of Officers*)

Medical Officer to report in certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector-General for information and for such action as he deems fit.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :—

(1) the day on which the deceased first complained of illness or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer was first informed of the illness,

(6) the nature of the disease,

(7) when the deceased was last seen before his death by the Medical Officer,

(8) when the prisoner died, and

(9) (in cases where a *post-mortem* examination is made) an account of the appearances after death, together with any special remarks that appear to the Medical Officer to be required. A copy of the particulars shall be sent to the Inspector-General as soon as may be.

Jailer.

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector-General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Officer.

(*Chapter IV—Admission, Removal and Discharge*)

Responsibility of Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confined to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the act and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailers.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers.

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate officers not to be absent without leave.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Convict Officers.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code, as in force in Mysore.

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to be examined on admission.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and discharge of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

Discipline of Prisoners.

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners ;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separat-

ing them altogether from other prisoners and for separating those of them who have arrived at the age of puberty from those who have not ;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

2 . Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Solitary confinement.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer.

Prisoners under sentence of death.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners.

Maintenance of certain prisoners.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private source at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector-General.

(*Chapter VII—Employment of Prisoners*)

Restriction on transfer of food and clothing between certain prisoners.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner, and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII.

Employment of Prisoners.

Employment of civil prisoners.

34. (1) Civil prisoners may, with the permission of the Superintendent, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing, of the Superintendent, be kept to labour for more than eight hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed,

and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment of criminal prisoners sentenced to simple imprisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

Health of Prisoners

Sick prisoners.

37. (1) The names of prisoners desiring to see the Medical Officer or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoner to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer respecting alterations of the discipline or treatment of any such prisoner.

Record of directions of Medical Officer.

38. All directions given by the Medical Officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of

each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

Hospital.

39. In every prison there shall be provided a suitable place for the accommodation and treatment of sick prisoners.

Power of Superintendent to send a prisoner to hospital for special treatment.

40. The Superintendent may, if in his opinion a prisoner requires special treatment in a hospital outside the prison or in a Mental Hospital send him to such hospital without requiring him to be in or under the custody or control of any prison officer but, subject to the prisoner or any relative or friend of the prisoner executing such bond and abiding by such other conditions, if any, as the Government may by rule or order prescribe. Any period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in going thereto or returning therefrom shall be deemed to be part of the period of his detention in the prison.

CHAPTER IX.

Visits to Prisoners.

Visits to civil and unconvicted criminal prisoners.

41. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial or prisoners intending to prefer an appeal or petition against their conviction, may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

42. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jalier has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Government may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

43. Whoever, contrary to any rule under section 61, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner, and whoever abets any offence made punishable by this section shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 48.

44. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him and shall without unnecessary delay make him over to a Police Officer, and thereupon such Police Officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

45. The Superintendent shall cause to be affixed, in a conspicious place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 43 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

46. The following acts are declared to be prison-offences when committed by a prisoner :—

(1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 61 to be a prison-offence ;

(2) any assault or use of criminal force ;

(3) the use of insulting or threatening language ;

(4) immoral or indecent or disorderly behaviour ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

(7) filing, cutting, altering or removing hand-cuffs, fetters, or bars without due authority ;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;

(10) wilful damage to prison-property ;

(11) tampering with or defacing history-tickets, records or documents ;

(12) receiving, possessing or transferring any prohibited article ;

(13) feigning illness ;

(14) wilfully bringing a false accusation against any officer or prisoner ;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape and any attack or preparation for attack upon any prisoner or prison-official ; and

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

47. The Superintendent may examine any person touching any such offence, and determine thereupon and punish such offence by—

(1) a formal warning ;

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the

Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form for such period as may be prescribed by rules made by the Government;

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Government;

(5) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Government;

(6) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Government;

(7) separate confinement for any period not exceeding two months;

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(8) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(9) cellular confinement for any period not exceeding ten days:

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again punished by cellular confinement:

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a

prisoner from communication with, but not from sight of, other prisoners;

(10) penal diet as defined in clause (9) combined with cellular confinement:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters.

Plurality of punishments under Section 47.

48. (1) Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely,—

(i) formal warning shall not be combined with any other punishment;

(ii) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement;

(iii) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(iv) no punishment shall be combined with any other punishment in contravention of rules made by the Government.

(2) No punishment shall be awarded for any such offence so as to combine with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.

Award of punishments under sections 47 and 48.

49. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

50. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no

punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical Officer to certify to fitness of prisoner for punishment.

51. (1) No punishment of penal diet, either singly or in combination, or of change of labour under section 47, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if, he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion, in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment book.

52. (1) In the punishment-book prescribed in section 12, there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, as also the substance of the evidence of the witnesses proving the offence or appearing for the defence, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment, the Jailer and the Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offence.

53. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise in the opinion of the Superintendent, is not adequately punishable by the

infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which, such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 47 :

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class : and

Provided also that no person shall be punished twice for the same offence.

Offences by prison subordinates.

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice, in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

Temporary Release of Prisoners.

55. (1) The Government or any authority to which the Government may delegate its power in this behalf may, subject to such conditions as may be prescribed by rules

made by the Government, release, temporarily for a period not exceeding ten days in a year excluding the time required for journeys and the days of departure from and the arrival at prison, any prisoner who has been sentenced to a term of imprisonment of not less than three years.

(2) The provisions of sub-section (1) shall not apply to a prisoner who has been classified as a habitual criminal for purposes of this Act and who has had more than three convictions.

(3) No person shall be released under sub-section (1) unless—

(*a*) he has, at the time of his release, served one half of his sentence including remission or a period of not less than two years of his sentence including remission, whichever is less ;

(*b*) his conduct in prison has been good ;

(*c*) twelve months have elapsed from the date of the expiry of the period of his previous release under this section.

(4) The period of release of a prisoner under sub-section (1) shall not count towards the total period of his sentence.

56. (1) On the expiry of the period for which a prisoner was released under sub-section (1) of section 55, he shall surrender himself to the officer in charge of the prison from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

57. Any prisoner who does not surrender himself as required by sub-section (1) of section 56 shall be liable upon conviction to be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[1] CHAPTER XII—A.

PRISONERS OF THE CIVIL AND MILITARY STATION, BANGALORE OR SENTENCED BY COURTS OF JUSTICES OF THE PEACE.

57-A. (1) The Government may, in respect of the following persons, namely, persons—

(*a*) (i) sentenced by a Court in the Civil and Military Station, Bangalore, to imprisonment; or

(ii) ordered by any such Court to be—

(*a*) imprisoned for default of giving security for keeping the peace or for maintaining good behaviour, or

(*b*) detained, or

(*c*) committed to Jail; or

(*b*) ordered by the Hon'ble the Resident in Mysore or any other competent authority in the Civil and Military Station, under any law for the time being in force, to be—

(i) detained, or

(ii) committed to Jail; or

(*c*) sentenced or ordered by a Court of Justice of the Peace appointed by His Excellency the Crown Representative to exercise jurisdiction in Mysore to imprisonment or detention or to be committed to Jail, by general or special order, make provisions for the execution of such sentence or order, as the case may be, in any prison in Mysore.

(2) Nothing in this section shall be deemed to apply to any sentence or order passed under the Army Act (XXXXIV and XXXXV vi C., C. 58), the Indian Army Act, 1911 (VIII of 1911) or the Indian Air Force Act, 1932 (XIV of 1932), for the time being in force.

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1. Chapter XII-A inserted by Act VI of 1945.

CHAPTER XIII.

MISCELLANEOUS.

Extramural custody, control and employment of prisoners.

58. A prisoner, when being taken to or from any prison in which he may be lawfully confined or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to the same incidents as if he were actually in prison.

Confinement in irons.

59. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Government, so confine them.

Prisoners not to be ironed by Jailer except under necessity.

60. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

61. The Government may make rules consistent with this Act—

(1) defining the act which shall constitute prison offences ;

(2) determining the classification of prison-offences into serious and minor offences ;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;

(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code as in force in Mysore may or may not be dealt with as a prison-offence ;

(5) for the award of marks and the shortening of sentences ;

(6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;

(7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;

(8) for the classification of prisons and description and construction of wards, cells and other places of detention ;

(9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;

(10) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;

(11) as to the food, clothing and bedding of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;

(12) for the employment, instruction and control of convicts within or without prisons ;

(13) for defining articles, the introduction or removal of which into or out of prisons without due authority is prohibited ;

(14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;

(15) for regulating the disposal of the proceeds of the employment of prisoners ;

(16) for the classification and the separation of prisoners ;

(17) for regulating the confinement of convicted criminal prisoners under section 28 ;

(18) for the preparation and maintenance of history-tickets ;

(19) for the selection and appointment of prisoners as officers of prisons ;

(20) for rewards for good conduct ;

(21) for regulating the transfer of prisoners whose term of imprisonment is about to expire ;

(22) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;

(23) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;

(24) for the appointment and guidance of visitors of prisons ;

(25) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1904, and to the officers employed, and the prisoners confined, therein ;

(26) in regard to the admission, custody, employment, dieting, treatment, and release of prisoners, and for other purposes consistent with this Act ; and

(27) generally, for carrying into effect the purposes of this Act.

Exhibition of copies of rules.

62. Copies of Rules under section 61, so far as they affect the government of prisons shall be exhibited, both in English and in the Vernacular in some place to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical Officer.

63. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may, in his absence, be exercised and performed by such other officer as the Government may appoint in this behalf either by name or by his official designation.

(*Part I—Preliminary*)

MYSORE ACT No. XLV OF 1943.

THE MYSORE CHILDREN ACT, 1943.

(*Received the assent of His Highness the Maharaja on the 28th day of July* 1943.)

WHEREAS it is expedient to make provision for the custody and protection of children and for the custody, trial and punishment of juvenile offenders ; Preamble.

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Children Act, 1943. Short title, extent and commencement.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) This section shall come into force at once. The Government may, by notification in the official Gazette from time to time, apply the whole or any portion of this Act to children or juvenile offenders or any class thereof in any local area in [1][the State of Mysore except Bellary District] from such date as may be specified in the notification, and may in like manner cancel or modify any such notification.

(4) The Mysore Juveniles Act, XIV of 1939, is hereby repealed. Repeal.

2. In this Act, unless there is anything repugnant in the subject or context— Interpretation clause.

(*a*) " Child " means a person under the age of sixteen years and, when used with reference to a child sent to a certified school, applies to that child during the whole period of his detention, notwithstanding that the child may have attained the age of sixteen years ;

1. See the Mysore Adaptation of Laws Order, 1959.

(*b*) " Juvenile offender " means any child who has been found to have committed an offence punishable with transportation or imprisonment ;

(*c*) " certified school " means a school established under sub-section (1) or certified under sub-section (2) of Section 45 of this Act, or any other educational institution certified in this behalf by the Government ;

(*d*) " guardian " in relation to a juvenile offender or child includes any person who, in the opinion of the court having cognizance of any proceedings in relation to the ıvenile offender or child, or in which the juvenile offender r child is concerned has, for the time being, the actual harge of or control over the juvenile offender or child ;

(*e*) " fit person " in relation to the care of any child ıcludes any society or body corporate established for he reception or protection of poor children or the preven- ion of cruelty to children which undertakes to bring up r to give facilities for bringing up any child entrusted to ts care in conformity with the religion of its birth ;

(*f*) " place of safety " includes any orphanage, hospital, nursing home or any other suitable place or institution the occupier or manager of which is willing temporarily to receive a child ; or, where such orphanage, hospital, nursing home or other suitable place or institution is not available, in case of a male child only a police station ;

(*g*) " brothel " means any house, room or place or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution ;

(*h*) " prescribed " means prescribed by rules under this Act ;

(*i*) " Juvenile court " means a separate court established under sub-section (1) of Section 55 of this Act, and includes a court hearing charges against children under sub-section (2) of that section ;

(*j*) " caning " means the punishment authorised under the Whipping Act, 1903, and inflicted with a cane less than half an inch in diameter as directed by the Government under Section 392 of the Code of Criminal Procedure, 1904 ;

(*k*) " Probation Officer " means an officer appointed under Section 29.

(Part II—Custody of Destitutes)

Powers of courts.

3. The powers conferred on courts by this Act shall be exercised only by (*a*) the High Court, (*b*) a Court of Session, (*c*) a District Magistrate, (*d*) a Sub-Divisional Magistrate, (*e*) any Magistrate of the First Class, (*f*) any Magistrate of the Second Class specially empowered by the Government to exercise all or any of such powers, (*g*) any Juvenile Court constituted under Section 55, and may be exercised by such courts whether the case comes before them originally or on appeal or for revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

4. (1) When any Magistrate not empowered to pass an order under this Act is of opinion that a child brought before him is a proper person to be sent to a certified school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child to the District Magistrate to whom he is subordinate or the Magistrate presiding over the nearest Juvenile Court having jurisdiction in the case.

(2) The District Magistrate or the Magistrate presiding over the Juvenile Court to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit, and may pass such order dealing with the case as he might have passed if the child had originally been brought before or tried by him.

PART II.

Measures for the Custody and Protection of Children who are Destitutes, etc.

Children found homeless, destitute, etc.

5. (1) Any police officer or other person authorised in this behalf in accordance with rules made by the Government may bring before a court any person who, in his opinion, is a child and who—

(*a*) has no home, settled place of abode or visible means of subsistence, or has no parent or guardian who exercises regular and proper guardianship, or

(*b*) is found destitute and his parents or surviving parent or other guardian, or, in the case of an illegitimate child, his mother or other guardian,

are or is, as the case may be, undergoing transportation or imprisonment, or

(*c*) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of such person, or

(*d*) frequents the company of any reputed thief or prostitute, or

(*e*) is lodging or residing in or frequenting a house used by a prostitute for the purposes of prostitution, or

(*f*) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime :

Provided that when any such child has a parent or guardian who has the actual charge or control over the child, the police officer or other person as aforesaid shall, in the first instance, make a report to the nearest court or magistrate having jurisdiction under this Act. Such court or magistrate may call upon such parent or guardian to show cause why the said child should not, during the pendency of the proceedings, be removed from his care, and may, on suitable sureties being offered for the safety of such child and for his being brought before the court, permit the child to remain in the actual charge or control of his parents or guardian, or may order his removal till the court passes orders under this Act.

(2) The court before which a child is brought as coming within one of these descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

(3) On the date fixed for the production of the child or for the inquiry, or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to a certified school should not be passed, and make any further inquiry it thinks fit.

(4) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of sub-section (1) and that it is expedient so to deal with him, the court may order him to be sent to a certified

school or may order him in the prescribed manner to be committed to the care of a relative or other fit person named by the court, such relative or other person being willing to undertake such care until such child attains the age of eighteen years or for any shorter period.

(5) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(6) The court which makes an order committing a child to the care of a relative or other fit person under this section may, in addition, order that he be placed under the supervision of a probation officer or other person named by the court:

Provided that, when the magistrate thinks fit he may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under the supervision of a probation officer or other person named by the court on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court, and the court may from time to time adjourn the inquiry and compel the production of the child in court to satisfy it that the said undertaking is being carried out.

Uncontrollable children.

6. Where the parent or guardian of a child proves to a court that he is unable to control the child and that he desires the child to be sent to a certified school, the court, if satisfied on enquiry that it is expedient so to deal with the child and that the parent or guardian understands the results which will follow, may order him to be sent to any such school.

PART III.

OFFENCES AGAINST CHILDREN AND THEIR PREVENTION.

Punishment for cruelty to children.

7. (1) Whoever having the actual charge of or control over a child abandons, exposes or wilfully neglects or ill-treats such child in a manner likely to cause such child

unnecessary suffering or injury to his health, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(2) For the purposes of this section, injury to health includes injury to, or loss of, sight or hearing and injury to limb or organ of the body and any mental derangement, and a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he wilfully fails to provide adequate food, clothing, medical aid or lodging for the child.

(3) A person may be convicted of an offence under this section notwithstanding the actual suffering or injury to health obviated by the action of another person.

(4) Nothing in this section shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.

Causing or allowing child to beg.

8. (1) Whoever for his own profit causes any child or, having the actual charge of or control over a child, allows that child to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(2) The Government may by notification in the official Gazette, exempt from liability to punishment under this section any class of persons in any district or place where this Act may be in operation.

Penalty for being drunk while in charge of a child.

9. If any person is found drunk in any highway or other public place, whether a building or not, or on any licensed premises, while having the charge of a child apparently under the age of seven years, and if such person is incapable, by reason of his drunkenness, of taking due care of the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees.

Explanation.—For the purposes of this section, a child shall be deemed to be under the age of seven if it appears to the court to be under that age unless the contrary is proved. Presumption as to age of child.

10. Whoever in any highway or other public place, whether a building or not, or on any licensed premises gives, or causes to be given, to any child any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or other urgent cause, shall be punishable with fine which may extend to fifty rupees. Penalty for giving intoxicating liquor to a child.

11. It shall be the duty of a police officer to seize any bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place, and any bidis, cigarettes, tobacco or smoking mixture so seized shall be forfeited to Government, and every such police officer shall be authorised to search any boy so found smoking but not a girl. Seizure by police officer of any bidis, cigarettes tobacco or smoking mixture in possession of a child.

12. Whoever, by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both. Penalty for inciting a child to bet or borrow.

13. Whoever takes an article in pawn from a child, whether offered by that child on his own behalf or on behalf of any other person, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both. Penalty for taking pawn from a child.

14. Whoever, having the actual charge of, or control over, a child between the ages of four and sixteen, allows that child to reside in or frequent a brothel, shall be punishable with imprisonment of either description for a Allowing child to be in brothel.

term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc., of young girl.

15. (1) Whoever, having the actual charge of or control over, a girl under the age of sixteen years, causes or encourages seduction or prostitution of that girl or causes or encourages anyone other than her husband to have sexual intercourse with her, shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) For the purposes of this section, a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse, with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had, if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc., or cruelly treated.

16. If it appears to a court on the complaint of any person that a girl under the age of sixteen is being treated with cruelty by her parent or guardian or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution, or living a life of prostitution, the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in a place of safety.

17. (1) Any police officer not below the rank of Sub-Inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Government, may take to a place of safety any child in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, as in force in Mysore, has been, or there is reason to believe has been committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may there be detained until he can be brought before the court, but such detention shall not, in the absence of a special order of the court, exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court, and the court may make such order as is mentioned in the next following sub-section,

or may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the conviction, discharge or acquittal of such person.

(3) Where it appears to the Court that an offence as aforesaid has been committed in respect of any child who is brought before the Court and that it is expedient in the interests of the child that an order should be made under this sub-section, the Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence and, if a charge is made against any person within that time, until the charge had been determined by the conviction, discharge or acquittal of that person and, in case of conviction, for such further time not exceeding one month as the Court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child.

Disposal of child by order of Court.

18. (1) Where any person having the actual charge of or control over a child has been—

(*a*) convicted of committing in respect of such child an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore; or

(*b*) committed for trial for and such offence; or

(*c*) bound over to keep the peace towards such child by any Court,

that Court may, either at the time when the person is so convicted, committed for trial or bound over or at any other time order that the child be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child or other fit person named by the Court (such relative or other person being willing to undertake such care) until he attains the age of eighteen years or for any shorter period, and that Court or any Court of like jurisdiction may, of its own motion, or on the application of any person, from time to time by order renew, vary and revoke any such order.

(2) The Court which makes an order committing a child to the care of a relative or other fit person under this section may require such relative or other person to execute a bond, with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the Court may impose for securing that the child may lead an honest and industrious life, and, in addition, order that the child be placed under the supervision of a probation officer or other person named by the Court.

(3) If the child has a parent or guardian, no order shall be made under this section unless—

(i) the parent or legal guardian has been convicted of or committed for trial for the offence or has been bound over to keep the peace towards the child or cannot be found ; or

(ii) the Court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child :

Provided that, if the Court thinks fit, it may, on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the Court, allow such child to remain in the custody of such parent or legal guardian subject to the supervision of a probation officer or other person named by the Court.

(4) Every order under this section shall be in writing, and any such order may be made by the Court in the absence of the child and the consent of any person to undertake the care of the child in pursuance of any such order shall be taken in such manner as the Court may think sufficient to bind him.

(5) Where an order is made under this section and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(6) The Court may, instead of ordering the child to be committed to the care of a relative or other fit person, order that the child shall be sent to a certified school.

(Part III—Offences against Children)

Warrant to search for child ill-treated.

19. (1) If it appears to a magistrate duly empowered under this Act, from information on oath or solemn affirmation laid by any person who in the opinion of the magistrate, is acting in the interests of a child, that there is reasonable cause to suspect that—

(*a*) the child has been or is being wilfully ill-treated or neglected in any place within its jurisdiction in a manner likely to cause the child unnecessary suffering or to be injurious to his health, or

(*b*) that an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore, has been or is being committed in respect of the child,

the magistrate may issue a summons in the first instance against the person or persons in whose care, custody or control such child is, to produce forthwith the said child in Court, or may issue a warrant authorizing any police officer named therein to search for such child, and, if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence as aforesaid has been or is being committed in respect of the child, to take him to and detain him in a place of safety until he can be brought before the magistrate, or authorizing any police officer to remove the child with or without search, to a place of safety and detain him there until he can be brought before the magistrate; and the magistrate before whom the child is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose charge or control he was had been committed for trial for an offence punishable under this Act:

Provided that, if the said child is in the custody or control of a parent or guardian who, being a female, does not, according to the customs and manners of the country, appear in public, the magistrate shall ordinarily issue a summons, and the person to whom such summons is issued shall be deemed to have complied with the summons if instead of personally attending in court she causes the said child to be produced in court.

(2) A magistrate issuing a warrant under this section may, in his discretion by the same warrant, direct that any person accused of any offence in respect of the child

be apprehended and brought before him or, direct that, if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section, the name of the child shall be given if known.

Compensation for false and frivolous or vexatious information.

20. (1) If, in any case in which an information has been laid by any person under the provisions of section 19, the magistrate, after such inquiry as he may deem necessary, is of opinion that such information was false and either frivolous or vexatious, the magistrate may, for reasons to be recorded in writing, direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(2) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a period of thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code, as in force in Mysore, shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him, but any amount paid as compensation shall be taken into account in any subsequent civil suits relating to such matter.

(6) An informer who has been ordered to pay compensation exceeding fifty rupees may appeal from the order as if such informer had been convicted on a trial held by the magistrate directing the payment of compensation.

(7) When an order for the payment of compensation is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided ; and where such order is made in a case which is not subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

PART IV.

Juvenile Offenders.

Bail of children arrested.

21. Where the person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in charge of the police station to which such person is brought may in any case, and shall unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail if sufficient security is forthcoming unless for reasons to be recorded in writing the officer believes that such release would bring him into association with any reputed criminal :

Provided that, when any girl apparently under the age of sixteen years is arrested, the officer in charge of a police station who has made the arrest or before whom the girl is produced shall release her at once if any person who in his opinion is a sufficient surety enters into a bond for such sum of money as the officer considers sufficient to produce her before the court and to appear in her stead if required at the police station.

Custody of children not discharged on bail after arrest.

22. Where a person apparently under the age of sixteen years having been arrested is not released under section 21 or otherwise, the officer in charge of the police station

shall cause him to be detained in the prescribed manner until he can be brought beore a court.

Remand or committal to custody.

23. A court, on remanding or committing for trial a child who is not released on bail, shall order him to be detained in the prescribed manner.

Attendance at court of parent of child charged with an offence, etc.

24. (1) Where a child is charged with any offence or is brought before a court on an application for an order to send him to a certified school, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child, if he can be found, to be warned to attend at the court before which the child will appear.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of or control over the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child if such mother or female guardian does not according to the customs and manners of the country appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

Sentences that shall not be passed on child.

25. Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death or transportation or committed to prison :

Provided that a child who is fourteen years of age or upwards may be committed to prison where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a certified school and that none of other methods in which the case may legally be dealt with is suitable.

No proceedings under Chapter VIII of Criminal Procedure Code against a child.

26. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1904, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

Commitment of child to a certified school.

27. (1) Where a child is found to have committed an offence punishable with transportation or imprisonment, the court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be sent to a certified school.

(2) Where prior to the commencement of this Act a juvenile offender has been sentenced to transportation or imprisonment, the Government may direct that in lieu of undergoing or completing such sentence he shall, if under the age of fourteen years, be sent to a certified school; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in such school.

Power to discharge juvenile offender or to commit him to suitable custody.

28. (1) A court may, if it shall think fit, instead of directing any juvenile offender to be detained in a certified school, order him to be—

(*a*) discharged after due admonition, or

(*b*) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person, on such parent, guardian, relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the juvenile offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the juvenile offender may lead an honest and industrious life. The court may order that the juvenile offender released under this

clause be placed under the supervision of a probation officer.

(2) If it appears to the court, on receiving a report from the probation officer or otherwise, that the offender has not been of good behaviour during the period of his probation, it may after making such enquiry as it deems fit, order the offender to be detained in a certified school.

Appointment of probation officers.

29. (1) A probation officer shall be—

(*a*) any person appointed to be a probation officer by the Government, or

(*b*) any person appointed for this purpose by a society recognised in this behalf by the Government, or

(*c*) when there is no person appointed under clause (*a*) or (*b*), any other person appointed from time to time by the court for any particular case subject to general or special orders of the Government.

(2) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the court, which passes any order under this Act in respect of the child is situate.

Duties of probation officers.

30. A probation officer shall, subject to the rules made under this Act and to the directions of the court—

(*a*) visit or receive visits from the child or the juvenile offender at such reasonable intervals as may be specified in the order passed by the court or subject thereto, as the probation officer may think fit;

(*b*) see that the relative of the child or the juvenile offender, as the case may be, or other person to whose care such child or juvenile offender is committed, observes the conditions of the bond;

(*c*) report to the court as to the behaviour of the child or the juvenile offender, as the case may be;

(*d*) advise, assist and befriend the child or the juvenile offender and when and where necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed.

Power to order parent to pay fine, etc., instead of child.

31. (1) Where a child is found to have committed an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall if the child is under fourteen years of age, order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so; but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

Detention in the case of certain crimes committed by children.

32. (1) When a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment which, under the provisions of this Act, it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Government.

(2) Notwithstanding the provisions of section 25, the Government may order any such child to be detained in such place and on such conditions as it thinks fit and while so detained the child shall be deemed to be in legal custody:

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

Methods of dealing with children charged with offences.

33. (1) Where a child charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether—

(*a*) by discharging the offender after due admonition; or

(*b*) by committing the offender to the care of his parent, guardian, other adult relative, or other fit person, on such parent, guardian, relative or person executing a bond to be responsible for his good behaviour; or

(*c*) by so discharging the offender and placing him under the supervision of a person named by the court; or

(*d*) by releasing the offender on probation of good conduct; or

(*e*) by sending the offender to a certified school; or

(*f*) by sentencing the offender to caning, administered by way of cuts not exceeding six on each hand in cases where the conduct of the offender has been such as to lead the court to believe that no other punishment would be effective; or

(*g*) by ordering the offender to pay a fine; or

(*h*) by ordering the parent or guardian of the offender to pay a fine; or

(*i*) where the offender is a child of fourteen years of age or upwards, by sentencing him to imprisonment; or

(*j*) by dealing with the case in any other manner in which it may legally be dealt with:

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

(2) Where a child is charged with an offence punishable with fine only, and is dealt with under clause (*g*) of subsection (1), the court may in default of payment of fine order the offender to be sent to a certified school for a period not exceeding three years.

(*Part V—Prohibition of Publication of Names—Part VI—Maintenance and treatment of persons sent to certified schools*)

Investigation of character and circumstances.

34. For the purpose of determining the sentence or order which a court ought to pass or make under this part against any person tried by or brought before it, the court shall, after recording its finding on the facts of the case, have regard to the character of the person and the circumstances in which he is living as disclosed by the facts of the case or, on further inquiry, by any other evidence or information.

PART V.

PROHIBITION OF PUBLICATION OF NAMES, ADDRESSES OR OTHER DETAILS CONCERNING CHILDREN INVOLVED IN OFFENCES.

Penalty for publishing names and addresses of children involved in offences.

35. (1) No report in any newspaper or news sheet of any offence by or against a child or of any proceedings in any court relating to such offence shall disclose the name, address or school, or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child.

(2) Any person who publishes any report or picture in contravention of the provisions of this section shall be punishable with imprisonment of either description for a term not exceeding two months or with fine or with both.

PART VI.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO THE CARE OF RELATIVES OR OTHER FIT PERSONS.

Contribution of parent.

36. (1) The court, which makes an order for the detention of a child or juvenile offender in a certified school or for the committal of a child or juvenile offender, to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or juvenile offender to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child or juvenile offender and shall record the evidence, if any, in the presence of the parent or such other person as the case may be or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) Any order made under this section may from time to time be varied by the court.

(4) The persons liable to maintain a child or juvenile offender shall for the purpose of sub-section (1) include in the case of illegitimacy his putative father:

Provided that where the child, or juvenile offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1904, the court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or juvenile offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1904.

Boarding out of children.

37. The managers of a certified school to which a child under the age of eight years is sent may, with the consent of the Chief Inspector, board the child out with any suitable person until the child reaches the age of ten years and thereafter for such longer period, with the consent of the Chief Inspector, as the managers consider to be advisable in the interest of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the Government.

(*Part VI—Maintenance and treatment of persons sent to certified schools*)

Placing out on licence.

38. (1) Where a child or juvenile offender is detained in a certified school, the managers of the school may at any time, with the consent of the Chief Inspector, by licence permit the child or juvenile offender on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to educate him or train for some useful trade or calling.

(2) Subject to the prescribed conditions, the Chief Inspector may, on the recommendation of the visitors or managers of a certified school, at any time after the expiration of six months from the commencement of the detention of a juvenile offender in a certified school, and if satisfied that there is a reasonable probability that the juvenile offender will abstain from crime and lead a useful and industrious life, release such offender from the school and grant him a written licence in the prescribed form and on the prescribed conditions, permitting him to live under the supervision and authority of such responsible person or society approved by the Chief Inspector as may be willing to take charge of the offender.

(3) Any licence granted under sub-section (1) or (2) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(4) The managers of the school or the Chief Inspector, as the case may be, may at any time by order in writing revoke any such licence, and order the child or juvenile offender to return to the school and shall do so at the desire of the person or society with whom or under whose supervision the child or juvenile offender is licensed to live. If the child or juvenile offender refuses or fails to return to the school, the managers of the school or the Chief Inspector, as the case may be, may, if necessary, arrest or cause to be arrested, the child or juvenile offender and take him or cause him to be taken to the school.

(5) When a licence has been revoked or forfeited and the child or juvenile offender refuses or fails to return to the school, the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or juvenile offender, issue a summons requiring the parent or guardian to attend at the court on such a day as

may be specified in the summons and to produce the child or juvenile offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punished with a fine which may extend to fifty rupees.

(6) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(7) The time during which a child or juvenile offender is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school: provided that, where a child or juvenile offender has failed to return to the school on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

Penalty for abetting escape of juvenile offender or child.

39. Whoever—

(*a*) knowingly assists or induces, directly or indirectly, a child or juvenile offender detained in or placed out on licence from a certified school or escape from the school or from any person with whom he is placed out on licence, or any child to escape from the person to whose care he is committed under the provisions of this Act;

(*b*) knowingly harbours, conceals, or prevents from returning to school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child, or juvenile offender, who has so escaped, or knowingly assists in so doing—

shall be punishable with imprisonment of either description for a term which may extend to two months or with fine which may extend to two hundred rupees, or with both.

Period of detention.

40. The period for which a child or juvenile offender is to be detained in a certified school shall be specified in the order in pursuance of which he is sent there, and shall be such period not being less than two years in the

case of a juvenile offender who at the date of the order is over the age of fifteen years and three years in the case of other juvenile offenders as to the court may seem proper of his teaching and training, but not in any case extending beyond the time when he will, in the opinion of the court, attain the age of eighteen years.

Discharge and transfer.

41. (1) The Government may at any time order a child or juvenile offender to be discharged from a certified school, either absolutely or on such conditions as the Government approves.

(2) The Government may order a juvenile offender over the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Mysore Borstal Schools Act, in the interest of discipline or for other special reasons:

Provided that the whole period of the detention of the child or juvenile offender shall not be increased by the transfer.

(3) Upon the transfer of a juvenile offender to a Borstal School under sub-section (2), the provisions of the Mysore Borstal Schools Act shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

The Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Government approves, and may, if it thinks fit, make rules in relation to children so committed to the care of any person and to the duties of such person with respect to such children.

Transfer from one certified school to another.

42. The Chief Inspector may direct any child or juvenile offender to be transferred from one certified school to another:

Provided that the total period of detention of the child or juvenile offender shall not be increased by such transfer.

PART VII.

CERTIFIED SCHOOLS AND OTHER INSTITUTIONS.

Establishment and certification of schools.

43. (1) The Government may establish and maintain any school or other educational institution which in the opinion of the Government under sub-section (1) is fit for the reception of children or juvenile offenders.

(2) The Government may certify that any school or other educational institution not established under sub-section (1) is fit for the reception of children or juvenile offenders.

Management of schools.

44. (1) For the control and management of every school established under sub-section (1) of section 43, a superintendent and a committee of visitors shall be appointed by the Government, and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(2) Every school certified under sub-section (2) of section 43 shall be under the management of a governing body who shall be deemed to be the managers of the school for the purposes of this Act.

Inspection of schools.

45. (1) The Government may appoint a chief inspector of certified schools and such number of inspectors and assistant inspectors as it thinks advisable to assist the chief inspector and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the Government directs but shall act under the direction of the chief inspector.

(2) Every certified school shall, at least once in every six months, be inspected by the chief inspector of certified schools, or by an inspector or assistant inspector : provided that where any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall, where practicable, be conducted by a woman.

Power of Inspectors.

46. A certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector or inspector or assistant inspector.

Medical inspection.

47. Any registered medical practitioner empowered in this behalf by the Government may visit any certified school at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school.

Power of Government to withdraw certificate.

48. The Government, if dissatisfied with the condition, rules, management, or superintendence of a certified school, may at any time by notice served to the managers of the school, declare that the certificate of the school is withdrawn as from a time specified in the notice, and at that time the withdrawal of the certificate shall take effect and the school shall cease to be a certified school:

Provided that the Government may, if it thinks fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of children or juvenile offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that, before the issue of notice under this section or under the first proviso thereto, a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school shall not be prohibited, as the case may be.

Registration of certificate by managers.

49. The managers of a certified school may, on giving six months' notice in writing to the Government through the Chief Inspector of their intention so to do, resign the certificates of the school, and accordingly at the expiration of six months from the date of the notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or registration of certificate.

50. A child or juvenile offender shall not be received into a certified school in pursuance of this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the managers to teach,

train, lodge, clothe and feed any children or juvenile offenders detained in the school at the respective dates aforesaid shall, except so far as the Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal of registration certificate.

51. When a school ceases to be a certified school, the children or juvenile offenders detained therein shall be either discharged absolutely or on such conditions as Government may impose or transferred by order of the Government to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

Auxiliary homes.

52. The Government may establish auxiliary homes for reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore established or which hereafter may be established by any other agency, and the certificates may be withdrawn or resigned in like manner as a certificate of a school, and every such home shall, for such purposes as are specified by the Government, be treated as part of the certified school or school to which it is attached.

Liabilities of managers.

53. The managers of a certified school not established by the Government may decline to receive any child or juvenile offender, proposed to be sent to them in pursuance of this Act, but when they have once accepted any such child or juvenile offender, they shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Inspection of institutions for reception of poor children.

54. (1) The Government may cause any institution for the reception of poor children supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of any department of the Government, to be visited and inspected from time to time at all reasonable hours, by persons appointed by it for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers, relating thereto for the aforesaid purposes. Any person who obstructs him in the execution of his duties shall be liable on conviction to a fine not exceeding fifty rupees.

(3) Where any such institution is carried on in accordance with the principles of any particular religious denomination the Government shall, if so desired by the managers of the institutions, appoint, where practicable, a person of that denomination to visit and inspect the institutions.

(4) Where any such institution is for the reception of girls only, the inspection shall, where practicable, be conducted by a woman.

PART VIII.

JUVENILE COURTS.

Juvenile Courts.

55. (1) The Government may provide for the establishment in any area of one or more separate courts for the conduct of proceedings under this Act at which the attendance of the child is required :

Provided that, where a child is accused of an offence triable jointly with any other person not being a child, nothing in this sub-section shall affect or be deemed to affect the powers of the court to try such other person under any other law for the time being in force.

(2) Where no such separate court has been established, the court before which a child is brought shall, unless the child is tried jointly with any other person not being a child, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART IX.

MISCELLANEOUS.

Provision as to religion.

56. (1) In determining the certified school which a child or juvenile offender is to be sent under this Act, the

court shall ascertain the religious denomination of the child or juvenile offender and shall, if possible, select a school in which facilities are afforded for instruction in his religion.

(2) In determining the person to whose care a child shall be committed under this Act, the Court shall ascertain the religious denomination of the child, and shall, if possible, select a person of the same religious denomination or a person who gives such undertaking as seems to the court sufficient that the child will be brought up in accordance with the religion of the child and such religion shall be specified in the order.

(3) In any case where a child has been committed pursuant to any such order to the care of a person who is not of the religious denomination of the child or who has not given such undertaking as aforesaid, the court which made the order or any court of like jurisdiction shall, on the application of any person in that behalf and on its appearing that a fit person of the religious denomination of the child or who will give such undertaking as aforesaid is willing to undertake the care of the child, make an order committing him to the care of such fit person.

(4) When a child is committed to the care of a certified school in which facilities for instruction in his religion are not afforded or to a person who does not give an undertaking that the child entrusted to him will be brought up in his religion (for want of a certified school or person of the religion of the child), the court shall take an undertaking from such school or such person that the child shall not be brought up in any religion other than his own.

(5) Where a child is boarded out or where a child or juvenile offender is permitted by license to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child, or juvenile offender, as the case may be, if such person is available, and if no such person is available then a person who gives a satisfactory undertaking that the child or juvenile offender shall be brought up in accordance with the religion of such child, or juvenile offender, and if no such person is available then another person within the provisions of section 37 or 38, as the case may be.

(6) When a child has been committed to the care of a person who gives an undertaking as aforesaid but the undertaking is not observed, the child shall be liable to be removed from the care of such person and dealt with according to the provisions of sub-section (3) of this section.

(7) Whenever any person interested in the religion of the child is informed of any attempt at conversion or tampering with his religion, he may apply to the court for an enquiry, and the court on being satisfied may issue an order removing the said child from the custody of such institution or person and hand over the custody to another fit person or institution.

Committal to an approved place of a child suffering from venereal or tubercular disease.

57. When a child who has been brought before a magistrate under any of the provisions of this Act, is found to be suffering from a venereal or tubercular disease, the magistrate, if satisfied that medical treatment is necessary and the child will not otherwise get such treatment, may commit the child to an approved place for such period as he may think necessary, and may from time to time extend the said period.

Removal of disqualification attaching to convictions for offences.

58. When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code, or section 565 of the Code of Criminal Procedure, 1904, or operate as a disqualification for office or election under any law.

Control of custodian over child.

59. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care notwithstanding that he is claimed by his parent or any other person.

Bonds taken under the Act.

60. The provisions of Chapter XLII of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this Act.

(Part IX—Miscellaneous)

Appeals.

61. (1) An appeal from an order made by a court under sections 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 18, 22, 36, 38, or 56 shall lie—

(*a*) if passed by a juvenile court, to a District Magistrate;

(*b*) if passed by any Magistrate, to the Court of Session; and

(*c*) if passed by a Court of Session, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

(3) Any order passed under the provisions of this Act and not subject to appeal under sub-section (1) may be revised by the High Court.

Powers to amend orders.

62. Without prejudice to the powers of courts of appeal and revision, any custody order, supervision order or probation order may be amended by the court which made the order, in respect of the person named as custodian, supervisor or probation officer, the period of duration, and such matters of detail as may be prescribed.

Rules.

63. (1) The Government may take rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

(*a*) the establishment and maintenance of certified schools and auxiliary homes, and the certification of schools as certified schools and of auxiliary homes;

(*b*) the management of certified schools and auxiliary homes;

(*c*) the appointment of visitors and their tenure of office;

(*d*) the inspection of certified schools;

(*e*) the maintenance, education and industrial training of the inmates of certified schools;

(*f*) the conveyance of juvenile offenders and children to certified schools;

(*g*) the grant of permission to the inmates of certified schools to absent themselves for short periods;

(*h*) visits to and communication with the inmates of certified schools;

(*i*) the punishment of offences committed by the inmates of certified schools;

(*j*) the inspection of the institutions referred to in Section 54;

(*k*) the manner of detention of children under arrest or remanded or committed for trial;

(*l*) the procedure to be adopted in any case or inquiry under this Act before any court other than a juvenile court;

(*m*) the persons who may be authorised to act under section 5 or 17;

(*n*) the manner in which a child may be committed to the care of relative or other fit person, and the duties of such persons and the supervision of such children;

(*o*) the conditions subject to which a juvenile offender may be released on licence under sub-section (2) of section 38 and the form and conditions of such licence;

(*p*) the manner in which the juvenile offender may be released on probation;

(*q*) matters incidental to the appointment, resignation and removal of probation officers and the remuneration and expenses payable to them;

(*r*) the duties of probation officers;

(*s*) the conditions on which societies may be recognized by the Government for providing probation officers;

(*t*) the contribution by parents and other persons liable to maintain juvenile offenders and children;

(*u*) the boarding out of children and the licensing and supervision of children and juvenile offenders and the submission reports regarding them;

(*v*) the procedure to be adopted in juvenile courts; and

(*w*) the time within which appeals under section 61 shall be filed.

(3) All rules made under this section shall be published in the official Gazette, and on such publication they shall have the same effect as if enacted in this Act.

MYSORE ACT No. XLVI OF 1943.

THE MYSORE BORSTAL SCHOOLS ACT, 1943.

An Act to provide for the Establishment and Regulation of Borstal Schools in the [1][State of Mysore except Bellary District].

(*Received the assent of His Highness the Maharaja on the 28th day of July* 1943.)

WHEREAS it is expedient to provide for the establishment and regulation of Borstal Schools in the [1][State of Mysore except Bellary District];

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Shrot title.

1. This Act may be called the Mysore Borstal Schools Act, 1943.

Extent and commencement.

2. (1) This Act shall apply to the [1][whole of the State of Mysore except Bellary District].

(2) It shall come into operation in any local area in the [1][State of Mysore except Bellary District] on such date as the Government may, by notification in the official Gazette, appoint in this behalf.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Borstal School" means a place in which offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(*b*) "Inspector-General" means the Inspector-General of Prisons and includes any officer appointed by the

1. See the Mysore Adaptation of Laws Order, 1953.

Government to perform all or any of the duties imposed by this Act on the Inspector-General ; and

(*c*) "Prescribed" means prescribed by rules made under this Act.

(*d*) "Prohibited Article" means an article, the introduction or removal of which into, or out of, any Borstal Institution is prohibited by any rule under this Act.

Establishment of Borstal Schools.

4. (1) For the purposes of this Act, the Government may establish one or more Borstal Schools.

(2) For every Borstal School, a Visiting Committee shall be appointed in such manner as may be prescribed.

Application of the Prisons Act.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, and the Mysore Prisoner's Testimony Act, 1894, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the inmates prisoners.

PART II.

Committal to Borstal Schools.

Court may pass order for detention in a Borstal School.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish sucurity under Chapter VIII of the Code of Criminal Procedure, 1904, whether any previous conviction is proved against him or not, and it appears to the Court—

(*a*) that the offender is not less than sixteen or, in any district or place in which the Mysore Children Act, 1943, is not in operation, less than fifteen nor more than twenty-one years of age ; and

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that the offender should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation ; it shall be lawful for the court, if empowered in this

behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under Section 123 of the Code of Criminal Procedure, 1904, an order for the detention of the offender in a Borstal School for a term, which shall not be less than three years and shall not exceed five years, but in no case extending beyond the date on which the offender will, in the opinion of the court, attain the age of twenty-three years :

Provided that before passing such an order the court shall give an opportunity to the parents or guardians of the said offender to be heard, and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal School, and shall be satisfied that the character, state of health and the mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid :

Provided further that no person who has been previously detained for the whole period prescribed in an order of detention or who has been transferred to prison under Section 13 of this Act, shall again be ordered to be detained.

Power of Government to exempt.

7. The Government may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal School.

Courts empowered to pass order for detention.

8. The powers conferred on courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a Sub-Divisional Magistrate, or a Magistrate of the First Class, and may be exercised by such courts whether the case comes before them originally, or on appeal, or in revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (1) When any Magistrate not empowered to pass an order for detention under this Act is of opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of

(*Part II—Committal*)

Criminal Procedure, 1904, is a proper person to be detained in a Borstal School, he may without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate to whom he is subordinate.

(2) The District Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act.

(3) The District Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further inquiry (if any) as he may think fit, and may pass such order for the detention of the offender in a Borstal School, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation of powers conferred by Section 6.

10. Any offender detained in a Borstal School for failure to furnish security when ordered to do so under Section 106 or Section 118 of the Code of Criminal Procedure, 1904, shall be released on furnishing such security or on the passing of an order under Section 124 of the said Code.

Transfer from prison to Borstal School.

11. The Inspector-General may, if satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed either before or after the commencement of this Act, being within the limits of age within which persons may be ordered to be detained in a Borstal School under this Act, might with advantage be detained in such school, direct him to be transferred from prison to a Borstal School, there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in such a school, the provisions of this Act shall apply to such person as if he had been originally ordered to be detained in a Borstal School.

Preliminary enquiry and findings as to age of offender.

12. (1) Before passing a sentence under Section 6, the court shall enquire into the age of the offender and after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

(2) A similar enquiry shall be made and finding recorded by every Magistrate not empowered to pass sentence under Section 6 before submitting his proceedings and forwarding of the offender to the District Magistrate as required by sub-section (1) of Section 9.

Transfer of incorrigibles, etc., to prison.

13. (1) Where an offender detained in a Borstal School escapes or is reported to the Government by the Inspector-General in consultation with the Visiting Committee to be incorrigible or to exercise a bad influence on the other inmates of the school, the Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Government may determine, but in no case exceeding the shortest of the following three periods :—

(*a*) the unexpired residue of the term of detention ; or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal School ;

(*c*) the maximum period of imprisonment which the court that tried him had authority to award under the Code of Criminal Procedure, 1904.

(2) Such offender may be confined in any prison in Mysore by warrant under the hand of a Secretary to Government, and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Government to determine the Borstal School in which a person shall be detained.

14. (1) Every offender ordered to be detained in a Borstal School shall be detained in such Borstal School as the Government may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that if accommodation in a Borstal School is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of

a prison as the Government may direct, until he can be sent to a Borstal School. The period of detention so undergone shall be treated as detention in a Borstal School.

Transfer from one school to another.

(2) The Inspector-General may order the transfer of any offender from any one Borstal School to any other Borstal School, provided that the whole period of his detention in a Borstal School shall not be increased by such transfer.

PART III.

Release on License.

Power to release on license.

15. (1) Subject to the prescribed conditions, the Inspector-General may, on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal School, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal School and grant him a written license in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority or such—

(*a*) officer of Government,
(*b*) secular institution,
(*c*) religious society, or
(*d*) responsible person,

as may be approved by the Inspector-General and willing to take charge of the offender.

(2) A license under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal School, unless sooner revoked.

(3) The period during which an offender is absent from a Borstal School during the continuance of a license granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of license.

16. (1) Subject to the prescribed conditions, the Inspector-General may at any time, and shall, at the request of the institution, society or person under whose supervision and authority the offender has by license been

permitted to live, revoke a license granted under Section 15, and upon such revocation the offender shall be detained in a Borstal School until the expiry of the term for which he was ordered to be detained in such school.

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by license permitted to live, his license shall be deemed to have been revoked from the date on which he has so removed himself.

Subsequent supervision.

17. (1) When the Inspector-General and the Visiting Committee report that the conduct of any offender detained in a Borstal School has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the Government may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to the rules made under this Act, may direct.

(2) The Government may also direct that any offender who is under supervision in accordance with sub-section (1) shall again be detained in a Borstal School for such period as it may think fit, provided that the total period of detention under this section shall not exceed one year.

Period of detention.

18. No person shall be detained in a Borstal School after he has, in the opinion of the Government, attained the age of twenty-three years, or, if in any particular case the Government so directs, after he has attained the age of twenty-five years.

Arrest of offender escaping from Borstal School, or escaping from supervision.

19. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal School, or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by license under Section 15, may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal School or to such authority, institution, society or person, as the case may be, and his license shall be forfeited with effect from the date of his escape.

PART IV.

CONTROL AND MANAGEMENT OF BORSTAL SCHOOLS.

Management of Borstal Schools.

20. Subject to the orders of the Inspector-General and subject also to the rules made by the Government, the control and management of every Borstal School shall vest in a Superintendent appointed by the Government.

Constitution, powers and duties of Visiting Committees.

21. (1) (*a*) Every Visiting Committee appointed under sub-section (2) of Section 4 shall consist of the Sessions Judge, the District Magistrate, the District Educational Officer of the District in which the school is situated, and four non-official members appointed by the Government.

(*b*) The non-official members shall hold office for a period of two years, but shall be eligible for re-appointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members—

(*a*) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(*b*) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the Government or to the Inspector-General from time to time any matter, which in their opinion should receive attention and the annual progress of the school;

(*c*) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;

(*d*) to consider cases of release on license under sub-section (1) of Section 15 placed before them by the Superintendent; and

(*e*) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the Government, every member of the Committee shall

be entitled to call for information from the Superintendent, to examine the records of the school, and to take such other action as he deems necessary for the due discharge of his duties.

Classification of inmates.

22. (1) The inmates of a Borstal School shall be divided by the Superintendent according to their industry and good conduct into four grades, namely—

(*a*) the penal grade,
(*b*) the ordinary grade,
(*c*) the star grade,
(*d*) the special star grade.

(2) The privileges of each grade shall be higher than those of the grade preceding, if any.

(3) Every inmate shall, on reception in a Borstal School, be placed in the ordinary grade.

(4) The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act, and the general instructions of the Visiting Committee.

(5) Promotions and reductions shall be regulated by close personal observation of the inmates, and shall depend specially on their general behaviour, amenability to discipline and attention to instruction, both literary and industrial.

Punishments for offences.

23. (1) The punishments which may be inflicted on an inmate of a Borstal School for offences specified in the Prisons Act, 1943, and the rules made thereunder shall be in the following forms and in no other—

(i) formal warning,
(ii) extra drill,
(iii) deprivation of any of the privileges of the grade,
(iv) reduction in grade,
(v) penal diet, *i.e.*, restriction of diet in such manner and subject to such conditions as may be prescribed.

(2) No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

(*Part IV—Control*)

Penalty for introduction or removal of prohibited articles.

24. Whoever, contrary to any rule under Section 27, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any Borstal Institution, or supplies or attempts to supply to any inmate outside the limits of such institution any prohibited articles, and every officer of a Borstal Institution who, contrary to such rule, knowingly suffers any such articles to be introduced into or removed from any Borstal Institution to be possessed by any inmate, or to be supplied to any inmate outside the limits of a Borstal Institution, and whoever, contrary to any such rules, communicates or attempts to communicate with any inmate, and whoever abets any offence made punishable under this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees or to both.

Limitation of hours of work.

25. No inmate of a Borstal School shall be made to work for more than eight hours a day :

Provided that extra drill awarded as a punishment under sub-section (1) of Section 23 shall not be deemed, for the purposes of this section, to be work.

Probation officers.

26. (1) For every inmate released under sub-section (1) of Section 15 there shall be a probation officer appointed by the District Magistrate in consultation with the Borstal Association, if any, in the district wherein the school is situated or in the district wherein the inmate permanently resided at the time an order of detention was passed against him under Section 6.

(2) Two months prior to the release of any inmate, the Superintendent shall request the District Magistrate to appoint a suitable probation officer as provided in sub-section (1).

(3) The District Magistrate shall communicate all appointments of probation officers made under sub-section (1) to the Superintendent in sufficient time for the inmates concerned being informed of their respective probation officers before their release from the school.

Explanation.—For the purpose of this section, " District Magistrate " shall mean the District Magistrate of the

district in which the inmate permanently resided at the time an order of detention was passed against him under Section 6.

PART V.

RULES.

27. (1) The Government may make rules for the regulation and management of any Borstal School and for the carrying into effect of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal Schools established under this Act ;

(*b*) the appointment, powers and duties of officials in such schools ;

(*c*) the constitution, powers and duties of Visiting Committees ;

(*d*) the classification, control, discipline, training, instruction and treatment of offenders ordered to be detained in a Borstal School and for the temporary detention of such offenders until arrangements can be made for sending them to such school ;

(*e*) the regulation of visits to, and communication with, offenders detained in such school ;

(*f*) the restriction or prohibition of the supply to, or possession by offenders detained in such school of any specified articles or kinds of articles ;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school ;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school ;

(*i*) the form and conditions of licenses granted under Section 15 ;

(*j*) the supervision of offenders after the expiration of the term of their detention ;

(*k*) the transfer of incorrigible offenders from a Borstal School to prison.

(*l*) the manner of detention of the accused under arrest or remanded or committed for trial.

(3) All rules made under this Act shall be published in the official Gazette, and on such publication shall have the same effect as if enacted in this Act.

PART VI.

Appeal and Revision.

Appeal and revision.

28. (1) For the purposes of appeal and revision under the Code of Criminal Procedure, 1904, an order of detention under Section 6 of this Act, shall be deemed to be a sentence of imprisonment for the same period.

(2) Any person affected by an order of the Inspector-General under this Act may appeal to the Government, whose orders shall be final.

PART VII.

Miscellaneous.

Power of Government to discharge an inmate.

29. The Government may at any time order the discharge of an inmate of any Borstal School either absolutely or subject to such conditions as it may think fit.

Detention in Borstal School not to be deemed to be a disqualification.

30. The detention of an offender in a Borstal School shall not be deemed to be a disqualification attaching to a conviction for any offence.

MYSORE ACT No. XLVII OF 1943.

THE MYSORE PROBATION OF OFFENDERS ACT, 1943.

An Act to provide for the Release on Probation of Offenders.

(*Received the assent of His Highness the Maharaja on the 28th day of July* 1943.)

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for other matters incidental thereto;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Probation of Offenders Act, 1943.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) This section shall come into force at once; and the Government may, by notification in the official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in any local area on such date as may be specified in such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) the "Code" means the Code of Criminal Procedure, 1904;

(*b*) "Court" means a Court empowered to exercise powers under this Act;

(*c*) "Probation order" means an order made under sub-section (1) of Section 5;

(*d*) "recognized society" means a society recognized by the Government for the purposes of Section 10;

(*e*) "supervision order" means an order made under sub-section (2) of Section 5; and

(*f*) words and expressions used but not defined in this Act and defined in the Code shall have the meanings assigned to them in the Code.

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1. See the Mysore Adaptation of Laws Order, 1953.

Courts empowered to pass orders under the Act.

3. (1) The following Courts are hereby empowered to exercise powers under this Act, namely :—

(*a*) The High Court,
(*b*) A Court of Session,
(*c*) A District Magistrate,
(*d*) A Sub-Divisional Magistrate,
(*e*) A Magistrate of the First Class,
(*f*) Any other Magistrate specially empowered in this behalf.

(2) The powers conferred under sub-section (1) may be exercised by such Courts, whether the case comes before them originally or on appeal or in revision.

(3) Where any offender is convicted by a Magistrate not empowered to exercise powers under this Act, and such Magistrate is of opinion that the powers conferred by Section 4 or 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the First Class or Sub-Divisional Magistrate forwarding the offender to, or taking bail for his appearance before such Magistrate, who shall dispose of the case in the manner provided by Section 380 of the Code.

Power of Court to release certain convicted offenders after admonition.

4. Notwithstanding anything contained in any enactment for the time being in force, in any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, or cheating, as defined in the Indian Penal Code, as in force in Mysore or of any offence punishable with not more than two years' imprisonment or fine or both and no previous conviction is proved against him, the Court by which he is so convicted may, if it thinks fit, having regard—

(*a*) to the age, character, antecedents or physical or mental condition of the offender, and

(*b*) to the nature of the offence or any extenuating circumstances under which the offence was committed for reasons to be recorded in writing, instead of sentencing him to any punishment, release him after due admonition.

Power of Court to release certain convicted offenders on probation of good conduct.

5. (1) Notwithstanding anything contained in any enactment for the time being in force, when—

(*a*) any male person is convicted of an offence not punishable with death or transportation for life, or

(*b*) any woman is convicted of an offence of any kind, if it appears to the Court by which the offender is convicted, that regard being had to the age, character, antecedents or physical or mental condition of the offender or to the circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court may, for reasons to be recorded in writing, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not being less than one year and not exceeding three years as the Court may direct and in the meantime to keep the peace and be of good behaviour:

Provided that the Court shall not pass a probation order under this section unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation and is likely to continue to have such place of abode or such occupation, within the local limits of its jurisdiction during the period of the bond:

Provided also that if a person under twenty-one years of age is convicted of any offence under the Indian Penal Code, as in force in Mysore, or any other enactments prescribed in this behalf under rules made by the Government, which is punishable with imprisonment not exceeding six months, the Court shall take action under this section, unless for special reasons to be recorded in writing, it does not consider it proper to do so.

(2) Where the offender appears to the Court to be under the age of twenty-five years, the Court may for reasons to be recorded in writing, make an order, hereinafter called a supervision order, directing that the bond to be entered into under sub-section (1) shall contain a condition that the offender shall be under the supervision of a probation officer named in the order during the period specified therein and such other conditions as in the opinion of the Court may be necessary for securing such supervision:

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the Court the offender shall attain the age of twenty-six years.

(3) While making a supervision order, the court may also direct that the bond shall contain such additional conditions with respect to residence, abstention from intoxicants and any other matters as the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender.

(4) A Court making a supervision order shall furnish the offender with a written statement of the conditions which he is required to observe.

Power of court to require released offender to pay damages and costs, and recovery of such damages and costs.

6. (1) A Court directing the release of an offender under Section 4 or 5 may order the offender to pay such compensation for loss or injury caused to any person by the offence and such costs of the proceedings as the Court thinks reasonable:

Provided that the amount of compensation and costs so awarded shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.

(2) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under sub-section (1).

(3) The amount ordered to be paid under this section may be recovered as a fine in accordance with the provisions of Sections 386 and 387 of the Code.

Appeal and powers of Court in appeal and revision.

7. (1) Notwithstanding anything contained in the Code, except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, an appeal shall lie from an order of conviction in every case in which an order is passed under Section 4 or 5 to the Court to which appeals ordinarily lie under the Code.

(2) When an order has been made under Section 4 or 5 in respect of any offender, the High Court, on appeal when there is a right of appeal to such Court, or when exercising its power of revision, set aside such an order

and in lieu thereof pass such sentence on such offender according to law :

Provided that the High Court shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

Provision in case of offender failing to observe condition of release.

8. (1) If the Court before which an offender is bound by his bond under Section 5 to appear and receive sentence when called upon or any Court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which an offender is brought or appears under sub-section (1) may either remand him to custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (2) or sub-section (4) of Section 5, it may forthwith—

(*a*) sentence him for the original offence, or

(*b*) without prejudice to the continuance in force of the bond, impose upon him a fine not exceeding one hundred rupees :

Provided that the Court passing a sentence of fine under clause (*a*) or (*b*) shall take into account the amount of compensation ordered to be paid under Section 6.

(4) If a fine imposed under clause (*b*) of sub-section (3) is not paid within such period as the Court may fix, the Court may sentence the offender for the orginal offence.

Provision as to bonds.

9. The provisions of Sections 122, 126, 126-A, 406-A, 514, 514-A, 514-B, and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act.

Appointment of probation officers.

10. (1) A probation officer named in a supervision order may be—

(*a*) any person appointed to be a probation officer by the Government, or

(*b*) any person nominated for this purpose with the previous approval of the Government by a recognized society, or

(*c*) any other person who, in the opinion of the Court, is a fit person to act as a probation officer in the special circumstances of the case.

(2) A probation officer named under sub-section (1) shall be a person who shall possess such qualifications as may be prescribed by rules made in this behalf.

(3) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(4) The Court before which an offender is bound by his bond under Section 5 to appear and receive sentence when called upon, may at any time appoint another probation officer in place of the person named in the supervision order.

Duties of probation officers.

11. A probation officer shall, subject to the provisions of Section 10 and rules made under this Act and subject to the directions of the Court—

(*a*) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the probation officer may think fit;

(*b*) see that the offender observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the offender;

(*d*) advise, assist and befriend the offender and, when necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed by rules made under this Act.

Variation of conditions of probation on application by probation officers.

12. (1) The Court before which any person is bound by a bond under Section 5 to appear and receive sentence may at any time, upon the application of the probation officer or of its own motion, if it thinks that it is expedient that the terms or conditions of the bond should be varied, summon the offender to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration thereof or by altering any of the conditions thereof or by inserting additional conditions therein :

Provided that in no case shall the duration of the bond be less than one year or more than three years from the date of the original order, and where a supervision order has been made under sub-section (2) of Section 5, the duration of the period of supervision shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years :

Provided further that, in the case of a bond with a surety or sureties, no such variation shall be made without the consent thereto of such surety or sureties, and that in the absence of such consent the Court shall in all such cases require the offender to enter into a new bond with or without sureties.

(2) Such Court may also, on application made by the probation officer or of its own motion, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond.

13. Any person who is found guilty of an offence and is dealt with under the provisions of this Act shall not suffer any disqualification attaching to a conviction for the offence :

Provided that this Section shall not apply to a person released on probation if subsequent to such release he was sentenced under sub-section (3) of Section 8 or a penalty was imposed on him under that sub-section.

Power to make rules.

14. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(*a*) regulating the appointment, resignation and removal of probation officers and prescribing the qualifications of such officers ;

(*b*) prescribing and regulating the duties of probation officers ;

(*c*) regulating remuneration and expenses payable to probation officers ;

(*d*) specifying conditions on which societies may be recognized for the purposes of clause (*b*) of sub-section (1) of Section 10 ; and

(*e*) prescribing the enactments referred to in the second proviso to Section 5 (1).

(3) All rules made under this section shall be published in the official Gazette, and on such publication shall have the same effect as if enacted by this Act.

Barring of operation of Section 562 of Act II of 1904.

15. In any area in which this Act is in force, no Court shall make an order under Section 562 of the Code in respect of any first offender.

Saving of Mysore Children Act and the Mysore Borstal Schools Act.

16. Nothing in this Act shall affect the provisions of the Mysore Children Act, 1943, or the Mysore Borstal Schools Act, 1943.

MYSORE ACT No. LVII OF 1943.

(Promulgated by His Highness the Maharaja on the 28th day of December 1943.)

An Act to provide for the application of the State Laws to the lands occupied by the Bangalore City Railway Station and the Bangalore-Hindupur line of the Mysore State Railways and for transitional arrangements in respect of proceedings and other matters pending in Courts on the date of the retrocession of jurisdiction over the said lands to His Highness the Maharaja.

Preamble.

WHEREAS His Excellency the Crown Representative has decided to retrocede to His Highness the Maharaja, with effect from the 1st January 1944, jurisdiction of every kind over the Railway lands occupied by the Bangalore City Railway Station, that portion of the Bangalore-Hindupur section of the Mysore State Railways, which lies between Bangalore City Railway Station and the frontier of the Mysore State, and the Madras and Southern Mahratta Railway lands lying between the boundary of the Civil and Military Station on Miller's Road and the Bangalore City Railway Station ; and it is necessary to provide for the application of State Laws to the lands occupied by the aforesaid lines and to make provision for the transitional arrangements in respect of proceedings and other matters which have arisen within the said lands and which are pending on the date of retrocession in the Courts of the Civil and Military Station of Bangalore :

His Highness the Maharaja has been pleased to enact as follows :—

Title.

1. This Act may be called an Act to provide for the application of State Laws to the lands occupied by the Bangalore City Railway Station and the Bangalore-Hindupur Section of the Mysore State Railways and for transitional arrangements in respect of proceedings and other matters pending in Courts on the date of retrocession.

Commencement and extent.

2. (1) It shall come into force on the 1st January 1944.

(2) It applies to all lands (including those occupied as stations, out-buildings and for other railway purposes) occupied by—

(*a*) the Bangalore City Railway Station as described in the Schedule to this Act;

(*b*) that portion of the Bangalore-Hindupur section of the Mysore State Railways which lies between Bangalore City Railway Station and the frontier of the Mysore State; and

(*c*) the Madras and Southern-Mahratta Railway lands lying beween the boundary of the Civil and Military Station on Miller's Road and the Bangalore City Railway Station.

Application of State Laws.

3. All laws for the time being in force in the Mysore State shall be deemed to be in force in the aforesaid lands.

Pending civil matters.

4. All civil suits and proceedings of whatever nature initiated and pending before the Courts in the Civil and Military Station, Bangalore, on the date of retrocession, shall be deemed to be suits and proceedings taken cognizance of by and pending in Courts of Mysore, and may be continued in Mysore Courts of competent jurisdiction, as may be notified by the Government, from the stages at which such suits and proceedings were pending.

Pending Criminal matters.

5. All criminal cases and proceedings taken cognizance of by and pending before the Criminal Courts in the Civil and Military Station, Bangalore, on the date of retrocession, shall be deemed to be cases and proceedings taken cognizance of by and pending in Courts of Mysore, and may be continued in Mysore Courts of competent jurisdiction, as may be notified by the Government, from the stages at which such cases and proceedings were pending:

Provided, however, that nothing in this section shall affect the provision of Section 350 of the Code of Criminal Procedure.

Pending appeals, etc.

6. All appeals, applications for revision, and other proceedings, civil as well as criminal, pending in the

appellate Courts or the Resident's Court of the Civil and Military Station, Bangalore, on the date of retrocession shall be deemed to be appeals, applications or proceedings pending in the corresponding appellate Courts or the High Court in Mysore, as the case may be, and may be continued in such appellate Courts of competent jurisdiction, as may be notified by the Government, or by the High Court, from the stages at which such cases, applications or proceedings were pending :

Provided, however, that nothing in this section shall affect the appeals from the Resident's Court pending before His Majesty in Council.

Appeals, etc., to lie to Mysore Courts after retrocession.

7. All appeals, references, applications for revision or review, applications for execution and all miscellaneous applications connected with judgments, decrees, orders or cases, civil or criminal, of courts having jurisdiction prior to retrocession and in respect of which no appeals, references or applications have been filed or made will lie to Courts of competent jurisdiction in Mysore to which such appeals, references or applications would lie if the said judgments, decrees, orders or cases were of corresponding Courts in Mysore, subject to the law of limitation as was in force in the Civil and Military Station, Bangalore, prior to retrocession, being applicable to such appeals, references or applications.

Law applicable to pending matters.

8. All civil suits and proceedings and criminal cases and proceedings commenced and pending in the Courts of the Civil and Military Station, Bangalore, on the date of retrocession, and all appeals, references and applications connected with suits, cases and proceedings in the said Courts prior to retrocession shall be decided by the Mysore Courts applying the law which was in force in the Civil and Military Station, Bangalore, at the time the suits, cases or proceedings were initiated, as far as altered circumstances will permit.

Power to appoint a First Class Magistrate.

9. Notwithstanding anything contained in the Criminal Procedure Code, 1904, the Government may appoint a Magistrate of the First Class with jurisdiction over the whole or any part of the lands to which this Act applies,

and determine to which District Magistrate he shall be subordinate and the Sessions Division in which the lands may be included.

10. For purposes of section 177 of the Code of Criminal Procedure, 1904, offences committed prior to the date of retrocession shall be deemed to be offences committed within the local limits of Mysore Courts of competent jurisdiction.

SCHEDULE.

Boundary of the Bangalore City Railway Station.

From the level crossing gate on the Mysore Road, the boundary runs North along the ditch on the East of Hanumanthapur and Bargi-Muddenhalli villages, thence continuing East to under-bridge No. 423 at mile 210/6, thence North till it reaches the under-bridge No. 422 near mile 209/22-23, thence turns East along the ditch till it reaches the Madras Railway line at mile 220/8 thence turns South-West alongside the Western boundary of Bargi-Muddenhalli village till it reaches the road under-bridge at mile 220722-23, thence runs along the boundary of the Municipal Road on the Dharmambudhi Tank bund, till it reaches the junction of the Arlepet and Tank Road, thence turns West and South alongside the compound wall of the Kemmangundi Road till it reaches the New Mill Road, thence turns West along the new Mill Road till it reaches the Magadi Road and thence turns North along the Magadi Road, till it reaches the Mysore level-crossing gate.

Roman Catholic Church and Compound excluded.

Rao Bahadur Thotadappa's Chattaram and compound excluded.

MYSORE ACT No. II OF 1944.

THE ALIENATED VILLAGES PURCHASE ACT, 1944.

(Received the assent of His Highness the Maharaja on the 10th day of January 1944.)

WHEREAS it is necessary and expedient to provide for the purchase by the Government of alienated villages and for matters incidental or ancillary thereto ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Alienated Villages Purchase Act, 1944.

(2) It extends to [1][the whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) "Deputy Commissioner" means the Deputy Commissioner of a Revenue District and includes the Assistant Commissioner in charge of a Revenue Sub-Division and any officer specially appointed by the Government to perform the functions of a Deputy Commissioner under this Act ;

(*b*) "Person interested" includes all persons claiming a proprietary interest in an alienated village or an interest in the price to be paid for its purchase by the Government under this Act ;

(*c*) "Prescribed" means prescribed by rules made by the Government under this Act ;

and expressions used in this Act but not defined herein shall have the same meaning as in the Mysore Land Revenue Code, 1888.

Publication of the offer.

3. Whenever any proprietor of an alienated village or, where more persons than one are proprietors, any of them offers to sell the village to the Government and the

1. See the Mysore Adaptation of Laws Order, 1953.

Government is prepared to consider the offer, a notification of the offer shall be published by the Government in the official Gazette.

Notice to persons interested.

4. (1) The Deputy Commissioner of the District within which the village is situate shall thereupon—

(*a*) publish copies of the said notification at convenient places in, and in the vicinity of the village;

(*b*) cause public notice to be given at convenient places in, or near, the village requiring that claims of all persons interested shall be made to him together with the nature and particulars of such claims in person or by agent at a time and place therein mentioned, such time not being earlier than 15 days from the date of publication of the notice; and

(*c*) serve notice to the same effect on all such persons known or believed to be interested in the village or to be entitled to act for persons so interested, as reside, or have agents authorised to receive service on their behalf within the district in which the village is situate.

(2) In cases where any person so interested resides elsewhere and has no such Agent, the notice shall be sent to his last known residence, address or place of business by registered post.

Power to require statement.

5. The Deputy Commissioner may also require any person interested in the village to make or deliver to him at a time and place mentioned (such time not being earlier than fifteen days from the date of the service of the requisition) a statement containing so far as may be practicable and known to him, the name of every person possessing any interest in the village and of the nature of such interest and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Enquiry into the claims.

6. On the day specified in the notice under section 4, or on any other day to which the enquiry may be adjourned, the Deputy Commissioner shall enquire into the claims of all persons interested in the village.

Determination of price.

7. When, on the basis of the enquiry under section 6, the Deputy Commissioner finds that the proprietor or proprietors are willing to sell the village, he shall determine the price that may be paid for the village, the person or persons interested in the village, the particulars of their respective interests and the amount that should be paid to each of them. He shall thereafter make a report to the Government of his findings.

Payment of price.

8. (1) The Deputy Commissioner shall determine the price of the village in such manner and having regard to such matters, as may be prescribed by the Government.

(2) The price to be paid by the Government for the purchase of an alienated village may be by payment in money or in such other form as may be agreed upon.

Order of the Government directing purchase.

9. The Government may on receipt of the report under section 7, pass an order directing the purchase of the village at the price determined under section 7 and accepted by the seller or at any other price as may be agreed upon.

Village to vest absolutely in Government.

10. After the passing of an order under section 9 and due publication thereof in the official Gazette,—

(*a*) the alienated village shall vest absolutely in the Government free from all encumbrances and shall for purposes of the Mysore Land Revenue Code, 1888, and any other law for the time being in force and relevant thereto, cease to be an alienated village ; and

(*b*) all persons interested shall be entitled to payment of the amounts due to them in such proportion as may be determined by the Government.

Jurisdiction of Civil Courts.

11. (1) Subject to the exception hereinafter appearing, no Civil Court shall exercise jurisdiction in respect of any matter arising out of the proceedings under this Act.

(2) Nothing in the preceding sub-section shall be held to prevent a Civil Court from entertaining suits between private parties for the purpose of adjudication of any disputes relating to their private rights.

Application of the Code of Civil Procedure, 1911.

12. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of

Civil Procedure, 1911, shall apply to all proceedings under this Act.

Power to make rules.

13. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner of determining and the matters to be considered in determining the price to be paid for an alienated village under sections 7, 8 and 9 ; and

(*b*) the manner in which such price shall be paid to the persons interested.

MYSORE ACT No. X OF 1944.

THE MYSORE PUBLIC HEALTH ACT, 1944.

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(*Chapter I—Preliminary*)

MYSORE ACT No. X OF 1944.

THE MYSORE PUBLIC HEALTH ACT, 1944.

(AS AMENDED BY ACTS XVI OF 1949 AND 8 OF 1953.)

An Act to make provision for advancing the Public Health of [1][the State of Mysore except Bellary District].

(*Received the assent of His Highness the Maharaja on the Twentieth day of January* 1944.)

WHEREAS it is expedient to make provision for advancing the public health of [1][the State of Mysore except Bellary District]; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Public Health Act, 1944.

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

2. (1) The provision of this Act, except Chapter IX and Part III of Chapter X, shall come into force in the [1][whole of the State of Mysore except Bellary District] at once.

Short title and extent.

(2) The Government may, from time to time, by notification, extend all or any of the provisions of Chapter IX to any local area in [1][the State of Mysore except Bellary District], and may cancel or modify any such notification.

Commencement.

(3) (*a*) The provisions of Part III of Chapter X shall come into force at once—

(i) in the cities of Bangalore and Mysore [2][and the Civil Station of Bangalore]; and

(ii) in every local area which has been, or may hereafter be, declared to be a municipality under [3]Mysore Town and Minor Municipalities Acts, 1933.

1. See the Mysore Adaptation of Laws Order, 1953.
2. Inserted by Act XVI of 1949.
3. Repealed and re-enacted as Mysore Act XXII of 1951.

(*b*) The Government may, from time to time, by notification, extend the provisions of Part III of Chapter X to any other local area in [1][the State of Mysore except Bellary District] and may cancel or modify any such notification.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "Building" includes—

(*a*) a house, out-house, stable, latrine, godown, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever;

(*b*) a structure on wheels or simply resting on the ground without foundations; and

(*c*) a boat, tent, van and any other such structure used for human habitation;

(2) "Cattle" includes elephants, camels, mules, asses, horses, cows, bulls, bullocks, buffaloes, sheep, goats and pigs and the young ones of these species.

(3) "Dairy" includes—

(*a*) any farm, cattle-shed, milk-store, milk-shop or other place from which milk is sold or supplied for sale, or in which milk is kept for sale or manufactured for sale into butter, ghee, cheese, cream, curds, butter-milk, or dried, sterilized or condensed milk; and

(*b*) in relation to a dairyman who does not occupy any premises for the sale of milk, any place in which he keeps the vessels used by him for the storage or sale of milk, but does not include—

(i) a shop or place in which milk is sold for consumption on the premises only; or

(ii) a shop or place from which milk is sold or supplied for sale in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place.

1. See the Mysore Adaptation of Laws Order, 1958

(4) "Dairyman" includes any person who sells milk, whether wholesale or by retail.

(5) "Drain" means a house-drain or a drain of any other description, and includes a sewer, tunnel, culvert, ditch, channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water or subsoil water.

(6) "Drug" means any substance used as medicine whether for internal or external use, or any substance used in the composition or preparation of such medicine.

(7) "Dwelling house" means a building constructed, used or adapted to be used, wholly or principally, for human habitation or in connexion therewith.

(8) "Executive Authority" means the Commissioner, President, or other functionary of the local authority concerned, who is vested with general executive powers under the Act or Rule constituting the local authority.

(9) "Executive Officer" means the paid officer, if any, of the local authority who is vested with general executive powers in the local area for which such authority is constituted under any Act or Rule.

(10) "Factory" means any premises including the precincts thereof, wherein any industrial, manufacturing or trade process is carried on with the aid of steam, water, oil, gas, electrical or any other form of power which is mechanically transmitted and is not generated by human or animal agency.

(11) "Filth" means—

(*a*) night-soil and other contents of latrines, cesspools and drains;

(*b*) dung and the refuse or useless or offensive material thrown out in consequence of any process of manufacture, industry or trade; and

(*c*) putrid and putrefying substances.

(12) "Food" includes every article consumed or used by man, for food, drink, or chewing, and all materials used or admixed in the composition or preparation of such article and shall also include flavouring and colouring matter and condiments.

(13) "Health Officer" means the Health Officer employed by the local authority concerned and if there is no such officer, the Health Officer of the District.

(14) "House-drain" means any drain actually used, or intended to be used, for the drainage of one or more premises.

(15) "Hut" means any buildings which is constructed principally of wood, mud, leaves, grass, thatch, or metallic sheets, and includes any temporary structure of whatever size or any small building of whatever material made, which the local authority may declare to be a hut for the purposes of this Act.

(16) "Infectious disease" means an infectious disease as defined in section 53 and includes notified disease as defined in section 63.

(17) "Latrine" includes privy, water-closet and urinal, whether public or private, or whether open or flush-out.

(18) "Local area" means the area within the jurisdiction of a local authority.

(19) "Local authority" means—

(*a*) in any municipal area, the Municipal Council [1][or Municipal Commission] concerned;

(*b*) in any area in a district, which is comprised within the jurisdiction of a panchayet, a Sanitary Board or a Town Board, the panchayet, Sanitary Board or Town Board concerned, or if under section 7 the Government so direct in respect of any function, the District Board concerned in respect of such function; and

(*c*) in the case of all areas in a district which are not comprised within the jurisdiction of a panchayet, Sanitary Board or Town Board, the District Board concerned.

(20) "Local Body" means a District Board, Municipal Council, [1][Municipal Commission], a Sanitary Board or a Town Board.

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1. Inserted by Act XVI of 1949.

(21) "Lodging house" means a hotel, a boarding house, a choultry, dharmasala or rest-house not maintained by the Government or a local authority, an unlicensed emigration depot, or any place where casual visitors are received and provided with sleeping accommodation, with or without food, on payment, but does not include—

(*a*) a students' hostel under public or recognized control, or

(*b*) a house licensed under section 125 for accommodating visitors to a fair or festival, or

(*c*) retiring rooms and rest-houses provided by a railway administration and normally used by passengers or railway servants or both.

(22) "Magistrate" does not include an honorary magistrate.

(23) "Milk" means the milk of a cow, buffalo, goat, ass, or other animal and includes cream, skimmed milk, separated milk, and condensed, sterilized or desiccated milk, or any other product of milk.

(24) "Notification" means a notification in the official Gazette.

(25) "Nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right.

(26) "Occupier" includes—

(*a*) any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, building or part; and

(*b*) a rent-free occupant.

(27) "Offensive matter" includes—

(*a*) filth as defined in clause (11);

(*b*) sewage as defined in clause (32) ; and

(*c*) dirt, house sweepings, spittings including chewed betel and tobacco, kitchen or stable refuse, broken glass or pottery, debris and waste paper.

(28) "Offensive trade" means any trade in which the substances dealt with are, or are likely to become, a nuisance.

(29) "Owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person or estate or for any religious or charitable purposes, the rent or profits of the property in connexion with which the word is used.

(30) "Prescribed" means prescribed by the Government by rules made under this Act.

(31) "Private street" means any street, road, square, court, alley, lane, passage or riding path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises.

(32) "Public street" means any street, road, square, court, alley, lane, passage or riding path, whether a thoroughfare or not, over which the public have a right of way and includes—

(*a*) the roadway over any public bridge or causeway;

(*b*) the footway attached to any such street, public bridge or causeway; and

(*c*) the drains attached to any such street, public bridge or causeway and the land whether covered or not by any pavement, verandah, or other structure which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to the Government.

(33) "Sanitary convenience" includes a latrine.

(34) "Sewage" means night-soil and other contents of latrines, cesspools or drains and includes trade effluents and discharges from manufactories of all kinds.

(35) "Street" means a public or a private street.

(36) "Urban local area" means the area within the jurisdiction of an urban local authority.

(37) "Urban local authority" means—

(*a*) a Municipal Council [1][or Municipal Commission]; or

(*b*) any panchayat notified by Government as an urban local authority for the purposes of this Act, so long as the notification remains in force.

(38) "Venereal disease" means syphilis, gonorrhœa soft chancre, venereal granuloma or lympho granuloma.

(39) "Water-course" includes any river, stream or channel, whether natural or artificial other than a drain.

(40) "Workplace" means any premises including the precincts thereof (not being a factory or a workshop) wherein is carried on any industrial, manufacturing or trade process, at which not less than five persons are employed for wages or any other remuneration.

(41) "Workshop" means any premises including the precincts thereof (not being a factory), wherein any article or part of an article is made, repaired, altered, ornamented, finished or otherwise adapted for use on a commercial basis and not less than five persons are employed for that purpose for wages or any other remuneration.

CHAPTER II.

Controlling Authorities and their Powers.

Public Health Board.

Constitution of the Public Heatlh Board.

4. (1) As soon as may be after the commencement of this Act, the Government shall cause to be constituted

1. Inserted by Act XVI of 1949.

for [1][the State of Mysore except Bellary District] a Public Health Board consisting of the following members namely :—

(*a*) The Minister in charge of Public Health ;
(*b*) The Senior Surgeon in Mysore.
(*c*) Two members of the Legislative Council elected by it ;
(*d*) Two members of the [2][Legislative Assembly] elected by it ;
(*e*) Two persons who have had experience in public health work nominated by the Government ;
(*f*) The Director, Public Health.

(2) [3](*a*) Members elected under clauses (*c*) and (*d*) of sub-section (1) shall hold offices for a period of one year from the date of election, but shall be eligible for re-election.

[4][(*b*) Members nominated under clause (*e*) of sub-section (1) shall hold office for a period of two years from the date of nomination but shall be eligible for re-nomination.]

(3) The Minister in charge of Public Health shall be the President of the Public Health Board and the Director of Public Health shall be its Secretary.

Functions of the Public Health Board.

5. (1) The Public Health Board shall advise the Government on such matters as the Government may from time to time refer to it.

(2) The meetings of the Board and the mode of transaction of business of such meetings shall be governed by such regulations as may be framed by it.

(3) The proceedings of the Board shall not be invalidated by reason of any vacancy in the office of the President, the Secretary, or any member.

(4) It will be competent for any two members of the Board to move propositions in regard to Public Health in Mysore and the working of the Mysore Public Health

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act 8 of 1953.
3. Relettered by Act 8 of 1953.
4. Added by Act 8 of 1953.

Act and call for a meeting of the Board for their consideration.

Powers of the Government and of the Director of Public Health.

Powers of the Government and of the Director of Public Health and his staff.

6. (1) The Government shall have power to inspect, control and superintend the operations of local authorities under this Act, and may from time to time give such directions as it may deem necessary.

(2) The Government may, from time to time, define the powers to be exercised, and the duties to be performed, by the Director of Public Health or any member of his staff for the purposes of sub-section (1).

Power of Government to direct performance by district board of any function devolving on panchayats.

7. (1) The Government may, by notification, direct that in respect of any function to be performed by a local authority under this Act and specified in the notification the District Board and not the panchayat, Sanitary Board or Town Board shall be the local authority in all or any areas in the district which are comprised within the jurisdiction of a panchayat, Sanitary Board or Town Board.

(2) Where a direction is issued under sub-section (1) in respect of any function, the Government may, by general or special order—

(*a*) determine, or provide for the determination of, the expenses incurred by the District Board in performing such function in the area or areas comprised within the jurisdiction of any panchayat or panchayats, or Sanitary Board or Town Board or Boards, and

(*b*) apportion, or provide for the apportionment of, such expenses between the District Board and the panchayat or panchayats or Sanitary Board or Town Board or Boards concerned.

Powers of the Director of Public Health to advise local authorities.

8. The Director of Public Health may, from time to time as occasion requires, recommend for adoption, by any local authority, such measures as may be necessary for improving the public health administration in the local area, or for safeguarding the public health therein:

Provided that if on account of financial or other reasons, any local authority is unable to carry out such measures, or if there is any difference of opinion between the local authority and the Director, the matter shall be referred to the Government whose decision shall be final.

Public Health Establishments of Local Authorities.

Public Health staff in local areas.

9. (1) The public health establishment of every local authority shall be on such scale as the Government, in consultation with the concerned local authority, may from time to time direct.

(2) The authorities who may make appointments to the public health establishments referred to in sub-section (1), the conditions of service of the members of such establishments, and the duties of such members shall, notwithstanding anything contained in any Act or Rule constituting a local body be governed by regulations, not inconsistent with this Act, made by the Government. Such regulations may lay down the extent to which the Director of Public Health shall have disciplinary control over the members of such public health establishments.

Appointment of the Health Officer.

10. (1) A local authority shall, if so required by the Government, include the post of a Health Officer in its establishment schedule.

(2) Notwithstanding anything contained in any Act or Rule constituting a local body, the Government—

(*a*) shall appoint the Health Officers of all the local authorities in respect whereof a direction is issued under sub-section (1) ; and

(*b*) may recover from each such local authority, the whole or such proportion of the salary and allowances paid to the Health Officer, and such contribution towards his leave allowances, pension and compulsory insurance as the Government may, by general or special order, determine.

No orders under (*a*) and (*b*) of sub-clause (2) shall be issued unless the opinion of the concerned local body has been obtained previously

Appointment of temporary Health Officers in emergencies.

11. (1) In the event of the prevalence of threatened outbreak of any infectious disease in any local area, or of any unusual mortality therein, the Government may, by order, appoint temporarily for such period as may be specified therein, one or more additional Health Officers, for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of, and preventing, such mortality, as the case may be.

(2) For the purpose of sub-section (1) the Government may appoint any medical practitioner registered under the Mysore Medical Registration Act, 1931, either on an honorary basis or on such salary or allowances or both as the Government may fix. The salary and allowances shall be payable from the funds of the local authority.

Delegation of powers of Health Officer.

12. The Government may, by general or special order, authorize any officer of the Government or of a local authority, to exercise such of the powers of a Health Officer under this Act, in such area, and subject to such restrictions, limitations and conditions and to such control and revision, as may be specified in such order.

Appointment of persons to carry out the provisions of this Act.

13. (1) Notwithstanding anything contained in this Act or in any other Act or Acts or Rule governing the local authority or authorities concerned, the Government may, by general or special order, appoint any person or persons to carry out such provision of this Act, and in such areas, as may be specified in the order.

(2) The expenses incurred by such person or persons in doing so shall be met from the funds of the local authority or authorities concerned, either wholly or in part, and, where more than one local authority is concerned, in such proportions, as may be determined by the Government.

Powers of Director of Public Health over public health staff of local authorities.

14. (1) Subject to such rules may be prescribed including rules for consultation with the executive authorities concerned, the Director of Public Health shall have power—

(*a*) to transfer any member of the public health establishment of a local authority to the public health establishment of another local authority; and

(*b*) in times of emergency, to assign one or more members of the public health establishment of one local authority for temporary duty in the area of another local authority.

(2) In the case referred to in clause (*b*) of sub-section (1), the local authority within whose jurisdiction the member or members of the public health establishment of another local authority are working, shall pay for the period of such temporary duty, the salary and allowances of such member or members and such contribution towards their leave allowances, pension and compulsory insurance as the Government may, by general or special order, determine.

Health Officer's control over public health staff.

15. (1) The Health Officer in charge of any local area shall exercise supervision and control over all other members of the public health establishment in such area.

(2) (*a*) Save as otherwise provided in this Chapter or in any rules or regulations made under it, all appointments, transfers and punishments of the members of the public health establishment under the supervision and control of the Health Officer shall be made by the Health Officer, subject to the approval of the executive authority.

(*b*) If for any reason the executive authority disagrees with the orders of the Health Officer under clause (*a*), the executive authority shall refer the matter to the Government whose decision shall be final.

Local authority to provide adequate facilities to the Health Officer.

16. Every local authority shall provide its Health Officer with such clerical assistance, office accommodation, furniture, equipment, stationery and forms as may be necessary for the proper conduct of the business of such Health Officer.

Authorization of Health Officer to perform the functions of executive authority in public health matters.

17. Notwithstanding anything contained in any Act or Rule constituting a local body and the Mysore Prevention of Adulteration Act, 1921, the Health Officer of a local auhority shall perform such of the functions, and discharge such of the duties, of its executive authority in regard to public health matters under any of the provisions applicable to such local authority contained in the Acts aforesaid, subject to such appeal and control as the Government may, by general or special order, determine.

CHAPTER III.

WATER-SUPPLY.

Local authority to provide potable water.

18. (1) Every local authority may, and if the Government so direct shall, provide or arrange for the provision of a sufficient supply of drinking water for consumption by the inhabitants of the area within its jurisdiction.

(2) The local authority shall, so far as may be practicable, make adequate provision for securing—

(*a*) that the water-supply is continuous throughout the year, and

(*b*) that the water supplied is at all times wholesome and fit for human consumption.

(3) A local authority may also provide or arrange for the provision of a sufficient supply of water for other domestic purposes or for non-domestic purposes.

Power of Government to direct local authority to execute water works.

19. (1) If in the opinion of the Government, a local area does not possess a sufficient supply of wholesome water fit for the consumption of its inhabitants, they may direct the local authority concerned, either singly or in combination with the local authority or authorities having jurisdiction over any local area or areas in the neighbourhood which are similarly situated, to execute within such time as the Government may fix, such works as may be directed by the Government for providing a sufficient supply of wholesome water fit for human consumption.

(2) A local authority may, with the previous sanction of the Government—

(*a*) construct, lay, or erect filters, reservoirs, engines, conduits, pipes or other works without the limits of its local area, for supplying such area with water;

(*b*) purchase or take on lease any water work, or any water, or any right to store or to take or convey water, either within or without the limits of its local area; and

(*c*) contract with any local authority or other person or agency for the supply of water.

(3) A local authority may, with the previous sanction of the Government, by public notice, declare any lake, stream, spring, well, tank, reservoir, pond or other source of water-supply, whether within or without the limits of its local area (other than a source under the control of the Government), from which water is or may be made available for the use of the public in the local area for domestic purposes, to be a source of public water-supply for such purposes and every such source shall thereafter be under the control of the local authority, only to the extent necessary for such purposes.

Power of Government to divert water from water-main belonging to local authority.

20. The Government shall have power to take water from any water-main belonging to, or in the control of, a local authority for supplying water to any other area, subject to such payment being made to the local authority concerned and subject also to such other conditions as the Government may consider reasonable:

Provided that before taking action under this section, the Government shall communicate to the local authority the grounds on which they propose to do so, fix a reasonable period for the local authority to show cause against the proposal, and consider its explanations or objections, if any.

Power of Deputy Commissioner in regard to water-supply.

21. (1) The Deputy Commissioner of the district, or any other officer appointed by the Government in this behalf, may cause inquiries to be made in any local area or part thereof, with a view to ascertaining,—

(*a*) whether the source of water-supply for such local area or part is contaminated from any cause against which effective means of protection can be taken, and

(*b*) whether the provision of any additional source or sources of water-supply is necessary for such local area or part.

(2) The Deputy Commissioner or other officer aforesaid may, after taking into consideration the result of such inquiries, by notice, direct that any source of water-supply be cleaned, improved, repaired or otherwise protected from contamination, or that such additional

source or sources of water-supply be provided, as the case may be :

Provided, that before issuing a notice under this sub-section, the Deputy Commissioner or other officer shall give the authorities or persons affected, a reasonable opportunity to make any representations they may wish to make and consider the same.

(3) Against any direction issued by the Deputy Commissioner or other officer under sub-section (2), an appeal shall lie to the Government whose decision shall be final.

(4) (*a*) Every notice issued under sub-section (2) shall specify the nature and extent of the works to be executed, the estimated cost thereof, and the authority or authorities or the person or persons by whom, and the period within which, they are to be executed.

(*b*) The notice shall either—

(i) be published in the prescribed manner ; or

(ii) be served on the local authority or on the person owning or having control over the source of water-supply, as the case may be, in the prescribed manner.

(5) If the directions contained in any notice issued under sub-section (2) have not been satisfactorily compiled with, the officer issuing the notice may himself cause the works specified in the notice to be executed, provided that he may, on sufficient cause being shown, extend the period specified in the notice, or modify or rescind any direction contained therein.

(6) (*a*) If a water-tax is imposed in the local area, the cost of carrying out the works specified in the notice issued under sub-section (2), whether such works are executed by the authority or person specified therein or under sub-section (5) by the officer issuing the notice, shall be borne by the local authority concerned.

(*b*) If no water-tax is imposed in the local area, such cost shall be borne by the inhabitants of the local area who, on inquiry, are found to be benefited by the works or shall be shared between such inhabitants and the local authority concerned in such proportions as may be determined by the Government.

Explanation.—For the purposes of this sub-section, 'water-tax' means—

(*a*) a tax levied under section 26 of this Act, or

(*b*) a water and drainage-tax or a tax for the specific purpose of executing, maintaining or improving any work for the supply of water levied under any Act or Rule constituting a local body.

Power of Director of Public Health to direct local authority to improve water-supply.

22. If the Director of Public Health is satisfied upon investigation that any source of public water-supply in a local area is contaminated or is subject to imminent risk of contamination by reason of unsatisfactory location, protection, construction, operation or maintenance, and speedy remedy or immediate prevention is, in his opinion, desirable, he may, by order, direct the local authority to take such measures as may be specified therein ; and the local authority shall take action accordingly.

Railway administrations to submit samples of drinking water for analysis.

23. In the case of any railway in [1][the State of Mysore except Bellary District], the Government may, by general or special order, require the authority administering the railway to submit for analysis, to such person or institution, in such manner, and at such intervals, as may be prescribed, samples of drinking water supplied by such authority at any station or stations on such railway. For such analysis, the authority aforesaid shall pay to the Government such fee as may be prescribed by them.

Rules for the protection and periodical examination of water-supply.

24. The Government shall have power to make rules providing for the protection and periodical examination of source of water-supply in [1][the State of Mysore except Bellary District].

Health Officer's powers in regard to insanitary sources.

25. (1) The Health Officer may at any time, by written notice require that the owner of, or any person having control over, any lake, stream, spring, well, tank, reservoir, pond or other source of water-supply which is used for drinking, bathing or washing clothes shall, whether the same is private property or not, within a reasonable time to be specified in the notice, or in any case falling under

1. See the Mysore Adaptation of Laws Order, 1958.

clause (*d*) within such time as may be specified in the notice not being less than thirty-six hours from the receipt thereof—

(*a*) keep and maintain any such source of supply in such manner as the Health Officer may direct ; or

(*b*) cleanse any such source of water-supply from silt, refuse and vegetation ; or

(*c*) protect any such source of water-supply from pollution by surface drainage in such manner as the Health Officer may direct ; or

(*d*) fill in, repair, protect or enclose in such manner as the Health Officer may direct, any such source of water-supply, if for want of sufficient repair, protection or enclosure, such source of water-supply is in his opinion dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same ; or

(*e*) resist from using, and from permitting others to use, for drinking purposes any such source of water-supply if, in the opinion of the Health Officer, the water is unfit for drinking ; or

(*f*) close any such source of water-supply, either temporarily or permanently, or fill up, enclose or fence the same in such manner as the Health Officer considers sufficient to prevent the use thereof for drinking purposes, if in his opinion the water is unfit for drinking ; or

(*g*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Health Officer considers to be either injurious to helath or offensive to the neighbourhood :

Provided that the provisions of clauses (*a*) and (*d*) shall not apply to a stream ;

Provided further that a notice shall not be issued under clause (*f*) unless a notice has first been issued under clause (*e*) and the source of water-supply in question continues to be used for drinking purposes notwithstanding the issue of such notice, and the Health Officer considers that such use cannot be prevented otherwise than by the issue of a notice under clause (*f*).

(2) If the owner or person having control as aforesaid fails or neglects to comply with any notice issued under sub-section (1) within the time specified therein, the Health Officer may, if immediate action is necessary to protect the health or safety of any person or persons, at once proceed to execute the work specified in such notice ; and all the expenses incurred in respect thereof by the Health Officer shall be paid by the owner of, or person having control over such source of water-supply, and shall be recoverable as if it were a tax due to the local authority concerned :

Provided that in the case of any private source the water of which is used by the public or by any section of the public as of right, the expenses which have been incurred by the Health Officer or which, in the opinion of the local authority, have been necessarily incurred by the owner of, or person having control over, the source of water-supply shall be paid from the funds of the local authority.

Levy of water-tax and earmarking the proceeds for water-works.

26. (1) Any local authority may with the previous sanction of the Government, and shall, if so directed by them, levy within its area or any part thereof, any tax which may be necessary for providing water-supply in such area or part.

(2) Any tax levied under sub-section (1) may be a new tax levied on such basis assessed and realized in such manner as may be sanctioned or directed by the Government, or may be a tax or additional tax levied under any head of taxation specified in any law for the time being in force governing the local authority concerned, in which case all the provisions of such law relating to the incidence, assessment or realization of a tax under such head or in any manner connected therewith shall be applicable to the tax or additional tax, with such modifications and restrictions, if any, as may be prescribed.

(3) (*a*) The rates at which any tax may be levied under this section shall be determined by the local authority with the previous sanction of the Government in case the tax is levied by the local authority of its own motion, and by the Government in case the tax is levied at their direction.

(*b*) The local authority may with the previous sanction of the Government and shall, if so directed by them, alter the rates at which any such tax is to be levied.

(4) (*a*) Every local authority levying a tax under this section shall earmark the net revenue therefrom for expenditure on the execution, maintenance and improvement of works of water-supply in the local area or part thereof within which it is levied.

(*b*) Such revenue shall be expended in accordance with such orders as may be issued by the Government in this behalf.

(5) Nothing contained in this section shall be deemed to affect the power of any local body to levy a water and drainage tax.

New house not to be occupied without adequate water-supply.

27. No owner of any dwelling-house which may be constructed or reconstructed after the commencement of this Act in any urban local area shall occupy it, or cause or permit it to be occupied, until he has obtained a certificate from an officer of the Public Health Department of the local authority concerned, not below the rank of Sanitary or Assistant Sanitary Inspector, that there is within the house, or within a reasonable distance therefrom, a supply of wholesome water sufficient for the domestic purposes of the inmates of the house.

CHAPTER IV.

DRAINAGE.

Local authority to maintain public drains.

28. (1) Every urban local authority shall, so far as the funds at its disposal may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual draining of its local area.

(2) If, in the opinion of the Government, any local area or part thereof should, for any special reason, be provided with a system of public drains or with any other means of drainage, they may direct the local authority to provide or execute, within such time as may be fixed by it in this behalf, such works as may be considered necessary by it.

(3) The local authority shall at all times keep in good repair all drains, cess-pools and the like vested in or belonging to it.

Power of Health Officer to require drains to be constructed.

29. (1) If any premises are in the opinion of the Health Officer without sufficient means of effectual drainage, he may, by notice, direct the owner of such premises to construct a drain leading therefrom to the nearest public drain or other place set apart by the local authority for the discharge of sewage :

Provided that—

(*a*) the cost of constructing that portion of the drain which is situated more than fifty feet from the said premises, shall be paid from out of the funds of the local authority concerned ; and

(*b*) if, in the opinion of the Health Officer, there is no public drain or other place set apart for the discharge of sewage within a reasonable distance of such premises, he may, by notice, require the owner of the premises to construct—

(i) a closed cess-pool, tank, filter or other work of such material, size and description, as he may direct ; and

(ii) a house-drain communicating with such closed cess-pool, tank, filter or other work.

(2) Where by reason of a local authority changing its system of drainage or undertaking a new system of drainage, it becomes necessary for the owner of any premises to reconstruct or alter any drain, the cost of the reconstruction or alteration of such drain shall be borne wholly by the local authority, or wholly by the owner, or partly by the local authority and partly by the owner, in accordance with such rules as may be prescribed.

Drains in private streets

30. Where a house-drain belonging to one or more premises has been laid in any private street which is common to more than one premises and the Health Officer considers it desirable that any other premises should be drained into such drain, he may, by notice, require the owner of such premises to connect his house-drain with

such first-mentioned drain and the owner or owners of such first-mentioned drain shall thereupon be bound to permit such connexion to be made :

Provided that no connexion shall be made—

(*a*) except upon such terms as may be mutually agreed upon between or among the owners concerned ; or

(*b*) in default of such agreement, except upon such terms as may be laid down by the local authority and in particular, until any payment which may be directed by the local authority to be made to the owner or owners concerned, has been duly made.

Drainage for huts.

31. (1) Drains for the drainage of huts shall be of such size and description, and be constructed of such material, as may be considered by the Health Officer to be practicable, having regard to the circumstances of the locality and the position of the nearest public drain or other place set apart by the local authority for the discharge of sewage.

(2) If the Health Officer considers that a new drain should be constructed for the benefit of the occupants of any hut, he may, by notice, require the owner of the land on which such hut stands, to construct such drain and such owner shall construct such drain, and cause it to be cleansed and repaired to the satisfaction of the Health Officer.

Drainage of court-yard, alley, passage, etc.

32. For the purpose of efficiently draining any land or building the Health Officer may, by notice, require the owner of any court-yard, alley, lane, passage or open space—

(*a*) to pave the same with such material and in such manner as may be approved by the Health Officer and to keep such paving in proper repair ; or

(*b*) to raise the level of such court-yard, alley, lane, passage or open space.

Explanation.—It shall be open to the Health Officer to require that in any case both the measures specified in clauses (*a*) and (*b*) of this section shall be taken.

(*Chapter IV—Drainage*)

Construction and closure of cess-pools.

33. (1) No person shall construct a cess-pool—

(*a*) beneath any part of any building or within fifty feet of any tank, reservoir, water-course or well or within such other distance therefrom, as the Health Officer may consider to be practicable having regard to the circumstances of the locality; or

(*b*) within any local area, or outside such area but within three hundred feet of any reservoir used for the storage of filtered water to be supplied to such area, except upon a site and in a position which have been approved in writing by the Health Officer.

(2) The Health Officer may, at any time, by notice, require any person within whose premises any cess-pool is constructed in contravention of sub-section (1) to remove such cess-pool or to fill it up with such material as may be approved by him.

Prohibition of occupation of new building without drains.

34. No owner of any building constructed or reconstructed after the commencement of this Act in any urban local area shall occupy it, or cause or permit it to be occupied, until he has obtained a certificate from the Health Officer that the building has been provided with sufficient means of drainage.

Sullage or sewage not to be let out into streets.

35. No person having control over any building or land shall cause or allow—

(*a*) the water of any sink, sewer, latrine or sanitary convenience, or any other liquid or other matter which is, or is likely to become, offensive, to run or drain into, or to be thrown or put upon, any street or open space or to soak through any external wall; or

(*b*) any offensive matter from any sewer, latrine or sanitary convenience, to run, drain or be thrown into a surface drain in any street.

Injurious refuse not to be discharged

36. No person shall, save as may be generally or specially prescribed, throw, empty, or turn, or suffer or permit to be thrown, emptied or turned or to pass, into

into public drain.

any public drain, or into any drain communicating with a public drain—

(*a*) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of such contents ; or

(*b*) any liquid being refuse or stream or other liquid which is, either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance, or prejudicial to health ; or

(*c*) any explosive or inflammable substance.

Pollution of water-courses prohibited.

37. No person shall, save as may be generally or specially prescribed—

(1) put, or cause to be put, or cause to fall or flow or be carried, or knowingly permit to be put or to fall or flow or be carried, into any water-course—

(*a*) any solid or liquid sewage matter, or

(*b*) any poisonous, noxious or polluting liquid proceeding from any manufactory or manufacturing process, or

(2) put, or cause to be put, or cause to fall or be carried, or knowingly permit to be put or to fall or be carried, into any water-course, so as either singly or in combination with other similar acts of the same or any other person, to interfere with the due flow of such water-course or to pollute the water therein, the solid refuse of any manufactory, manufacturing process or quarry, or any rubbish or cinders, or any other waste or putrid solid matter, or

(3) commit nuisance in or in the neighbourhood of any water-course.

CHAPTER V.

Sanitary Conveniences.

Obligation of local authority to provide public sanitary conveniences.

38. Every local authority shall provide and maintain in proper and convenient places a sufficient number of sanitary conveniences for the use of the public and cause all such places to be kept in proper order so as not to be a nuisance or injurious to health.

(*Chapter V—Sanitary Conveniences*)

New houses to be provided with sanitary conveniences.

39. If in any local area any building intended for human habitation is constructed or is reconstructed after being pulled down to or below the ground floor, the owner thereof shall provide such sanitary conveniences and in such positions as the Health Officer may, by notice, require.

Additional sanitary conveniences.

40. (1) If any building intended for human habitation is without any sanitary convenience or if, in the opinion of the Health Officer, the sanitary convenience or conveniences, provided therein are insufficient having regard to the number of persons occupying the building, or are inefficient, or are objectionable on sanitary grounds, he may, by notice, in writing, require the owner of such building—

(*a*) to provide such sanitary conveniences or such additional sanitary conveniences and in such positions, as may be specified in the notice ; or

(*b*) to make such structural or other alterations as may be specified in the notice.

(2) Every owner of the ground on which a group of six or more huts stands shall provide such latrine accommodation, in such positions, and within such time as the Health Officer may, by notice, require, for the use of the inhabitants of such group of huts.

Mode of construction of latrines.

41. (1) All latrines shall—

(*a*) be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood ; and

(*b*) be maintained, repaired, altered and used in accordance with the rules and bye-laws made under this Act.

(2) If any latrine opening on any street, whether such latrine be erected before or after the commencement of this Act, is so placed or constructed as to be a nuisance or offensive to public decency, the Health Officer may, by notice, in writing require the owner to remove it or to carry out such improvements therein and within such time as may be specified in the notice.

(3) When any latrine is used in common by the occupiers of two or more premises or by the members of two or more families, no person shall injure or improperly foul any such latrine or anything used in connexion therewith.

CHAPTER VI.

ABATEMENT OF NUISANCES.

Certain things to be nuisances.

42. Without prejudice to the generality of the definition of the expression "nuisance" contained in clause (24) of Section 3, the following shall be deemed specifically to be nuisances for the purposes of this Chapter :—

(1) Any premises in such a state as to be prejudicial to health or a nuisance ;

(2) any pond, pool, ditch, gutter, water-course, water-trough, latrine, cess-pool, drain or ash-pit which is so foul or in such a state as to be prejudicial to health or a nuisance ;

(3) any animal kept in such a place or manner as to be prejudicial to health or a nuisance ;

(4) any accumulation or deposit of refuse or other matter which is prejudicial to health or a nuisance ;

(5) any factory (not being a factory governed by the provision of the Mysore Factories Act, 1936), workshop or workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein ;

(6) any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dye-house, brewery, bake-house or gas work, or in any manufacturing or trade process whatsoever ;

(7) any chimney sending forth smoke in such quantity as to be a nuisance ; and

(8) any noise, vibration, dust, cinders, irritating smell or offensive odour produced by a factory, workshop or workplace which is a nuisance to the neighbourhood.

Detection of nuisance.

43. Every urban local authority shall—

(*a*) cause its local area to be inspected from time to time with a view to ascertain what nuisances exist therein calling for abatement under the powers conferred on such authority by this Act ; and

(*b*) enforce the provisions of this Act in order to abate such nuisances.

Information regarding nuisance.

44. Any person aggrieved by a nuisance in any local area may give information of the same to the Health Officer or any other officer of the public health establishment of the local authority.

Power of Health Officer to abate nuisance.

45. If the Health Officer is satisfied, whether upon information given under section 44 or otherwise of the existence of a nuisance, he may, by notice, require the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found, the owner or occupier of the premises on which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose :

Provided that —

(*a*) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises ; and

(*b*) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufferance of the owner or the occupier of the premises, the Health Officer may himself forthwith do what he considers necessary to abate the nuisance and to prevent a recurrence thereof.

Power of local authority to abat nuisance.

46. If the person on whom a notice to abate a nuisance has been served under section 45, makes default in complying with any of its requirements within the time

specified therein, or if the nuisance although abated within such time is, in the opinion of the local authority, likely to recur on the same premises, the local authority may arrange for the execution of any works necessary to abate the nuisance or to prevent its recurrence, as the case may be, and may recover the cost from such person as if it were a tax due to the local authority.

Provision regarding house rendered unfit for occupation by reason of nuisance.

47. Where a house or other building is, in the opinion of the Health Officer, unfit for human habitation by reason of a nuisance existing therein, he may apply to a Magistrate (not being a Magistrate of the Third Class) to prohibit the use of such house or building for human habitation until it is rendered fit therefor and the Magistrate shall, after enquiry, pass such order as he deems fit.

Disposal of articles removed while abating nuisance.

48. (1) A local authority may sell any materials which have been removed by it from any premises (including any street), when executing works under this Chapter or otherwise carrying into effect the provisions thereof, if such materials are not claimed and taken away by the owner before the expiration of seven days from the date on which they were removed by the local authority.

(2) A local authority selling any materials under subsection (1) shall pay the sale-proceeds to the person to whom the materials belonged, after deducting therefrom the amount of any expenses recoverable from him by such authority.

(3) The provisions of this section shall not apply to any offensive matter removed by a local authority under the Act governing such authority.

Powers of entry and inspection.

49. The executive authority or any officer of the Public Health Department of the Government or of the local authority, not below the rank of Sanitary or Assistant Sanitary Inspector, may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Chapter:

Provided that—

(*a*) no such entry shall be made between sunset and sunrise except when a nuisance is caused by anything done or omitted to be done in the premises between sunset and sunrise;

(*b*) no dwelling house shall be so entered without the consent of the occupier thereof, unless he has received at least twenty-four hours previous notice of the intention to make such entry ;

(*c*) sufficient notice shall in every case be given to enable the inmates of any apartment appropriated to women to withdraw to some part of the premises where their privacy may be preserved ; and

(*d*) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the persons residing in the premises.

Power of Government in case of default by local authority.

50. If the local authority or its Health Officer makes default in doing its or his duty under this Act in regard to the abatement or prevention of nuisances, the Government may authorize any of its officers to perform such duty and for that purpose to exercise any specified powers of the local authority or of its Health Officer or of both, in the local area concerned and the expenses incurred by such officers shall be met from the funds of the local authority.

Nuisance caused by act or omission outside local area.

51. If a nuisance under this Act within, or affecting any part of, a local area, appears to be wholly or partly caused by some act or default committed or taking place outside such local area, the local authority may take or cause to be taken against any person in respect of such act or default any proceedings in relation to nuisances, authorized by this Act in the like cases and with the like incidents and consequences as if the act or default were committed or took place wholly within such local area.

Prohibition of the deposit of rubbish, etc., in street, etc.

52. (1) No person shall deposit, or cause or suffer any member of his family or household to deposit, any carcasses of animals, any dust, dirt, dung, ashes or refuse or filth of any kind, any animal matter, any broken glass, earthenware or other rubbish, or any other thing which is or may be a nuisance, in any street or in any such under a street, or in any drain beside a street, or on any open space (not being private property), or on the bank of any water-course, except in such receptacles as may be

provided or at such places, in such manner and at such hours, as may be fixed by the Health Officer.

(2) No person shall ease himself, or cause, permit or suffer any members of his family or household to ease himself, in any such street, arch, drain, open space or bank aforesaid.

(3) Any person easing himself in any private open space shall immediately cover up the excreta with earth.

CHAPTER VII.

Prevention, Notification and Treatment of Diseases.

PART I.

Infectious Diseases in General.

Infectious diseases.

53. For the purposes of this Part, 'infectious disease' mean—

(*a*) acute influenzal pneumonia, (*b*) anthrax, (*c*) cerebrospinal fever, (*d*) chicken-pox, (*e*) cholera, (*f*) diphtheria, (*g*) enteric fever, (*h*) leprosy, (*i*) measles, (*j*) plague, (*k*) rabies, (*l*) relapsing fever, (*m*) scarlet fever, (*n*) small-pox, (*o*) tuberculosis, (*p*) typhus or (*q*) any other disease which the Government may, from time to time, by notification declare to be an infectious disease either generally throughout [1][the State of Mysore except Bellary District] or in such part or parts thereof, as may be specified in the notification.

Appointment of additional health staff.

54. (1) In the event of the prevalence or threatened outbreak of any infectious disease in any local area, or of any unusual mortality therein, the local authority concerned shall provide such additional staff, medicines, appliances, equipment and other things as may, in the opinion of the Health Officer, be necessary for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of such mortality, and preventing it, as the case may be :

Provided that, if the local authority does not agree with the opinion of the Health Officer, the matter shall be

1. See the Mysore Adaptation of Laws Order, 1953.

referred to the Director of Public Health whose decision shall be final.

(2) In the event aforesaid, if the Health Officer considers that immediate action is necessary in the interests of public health, he may, notwithstanding anything contained in sub-section (1), appoint such additional staff and obtain such medicines, appliances, equipment and other things as may be necessary ; and expenses incurred in respect thereof shall be met from the funds of the local authority.

(3) Every appointment made under sub-section (2) shall be reported forthwith to the executive authority and by such authority to the local authority concerned at its next meeting.

Provision and maintenance of isolation hospitals and wards.

55. (1) (*a*) The local authority may, and if so required by the Government shall, provide or cause to be provided, hospitals, wards or other places for the reception and treatment of persons suffering from infectious diseases.

(*b*) For the purpose of the receptions and treatment of such persons a local authority may—

(i) itself build such hospitals, wards or places of reception, or

(ii) contract for the use of any such hospital or part of a hospital or place of reception ; or

(iii) enter into an agreement with any person having the management of any such hospital, for the reception and treatment therein of persons suffering from infectious diseases.

(*c*) For the purpose aforesaid, two or more local authorities may in combination provide a common hospital or place of reception.

(2) A local authority shall not be deemed to have discharged its obligation under sub-section (1) unless the hospitals, wards or places of reception in question are maintained in accordance with such general or special orders as may, from time to time, be issued by the Director of Public Health.

Provision of ambulances, etc.

56. A local authority may, and if so required by the Director of Public Health shall,—

(*a*) provide and maintain suitable conveyances, with sufficient attendants and other requisites, for the free carriage of persons suffering from any infectious disease; and

(*b*) provide proper places and apparatus and establishment, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection; and when any conveyances, clothing, bedding or articles are brought to any such place for disinfection, may cause them, at its discretion, to be disinfected, either free of charge, or on payment of such fee, as it may fix.

Medical practitioners to give information of certain infectious diseases.

57. Every medical practitioner who in the course of his practice becomes cognizant of the existence of any case of enteric fever or tuberculosis in any private or public dwelling other than a public hospital shall, if the case has not been already reported, give information of the same with the least practicable delay—

(*a*) in municipal areas, to the executive authority, the Health Officer or a Sanitary or Assistant Sanitary Inspector; and

(*b*) in non-municipal areas, to the Health Officer, a Sanitary or Assistant Sanitary Inspector or the village patel.

Explanation.—In this section, 'medical practitioner' includes a *hakim or vaidya,* whether registered or not.

Prohibition of the use of water from suspected source.

58. (1) If it appears to the Health Officer that the water in any tank, well or other place, if used for drinking or any other domestic purpose, is likely to endanger or cause the spread of any infectious disease, he may, by public notice, prohibit the removal or use of the said water generally or for any specified domestic purpose.

(2) No person shall remove or use any water in respect of which any such notice has been issued in contravention of the terms thereof.

(Chapter VII—Prevention, Notification and Treatment of Diseases)

Removal of infected person to hospital.

59. (1) If it appears to the Health Officer that any person is suffering from an infectious disease, and that such person—

(*a*) (i) is without proper lodging or accommodation;

or

(ii) is lodged in a place occupied by more than one family; or

(iii) is without medical supervision directed to the prevention of the spread of the disease;

(iv) is in a place where his presence is a danger to the people in the neighbourhood; and

(*b*) should be removed to a hospital or other place at which patients suffering from such disease are received for treatment,

the Health Officer may remove such person or cause him to be removed to such hospital or place.

(2) If any woman who, according to custom, does not appear in public, is removed to any such hospital or place—

(i) the removal shall be effected in such a way as to preserve her privacy; and

(ii) special accommodation in accordance with the custom aforesaid shall be provided for her in such hospital or place.

(3) No person shall leave or be taken away from any hospital or other place referred to in sub-section (1) without the permission of the medical officer-in-charge.

(4) Whoever—

(*a*) obstructs the removal of any person to any hospital or other place under sub-section (1), or

(*b*) leaves, or takes away any person from, any such hospital or place in contravention of sub-section (3), shall be punished with imprisonment which may extend to three months, or with fine, or with both.

Prohibition of the exposure of other persons to infection.

60. (1) No person who knows that he is suffering from an infectious disease not specified in Part II of this

Chapter shall expose other persons to the risk of infection by his presence or conduct in—

(*a*) any market, theatre or other place of entertainment or assembly, or

(*b*) any school, college, play-ground or such other place, or

(*c*) any hotel, hostel, boarding house, choultry, rest-house, or club, or

(*d*) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from an infectious disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of the Government or of a local authority, not below the rank of Sanitary or Assistant Sanitary Inspector, or a medical practitioner registered under the Mysore Medical Registration Act, 1931, that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from an infectious disease not specified in Part II of this Chapter shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

Infected persons not to engage in certain trades and occupations.

61. No person shall, while suffering from, or in circumstances in which he is likely to spread, any infectious disease—

(*a*) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food for human consumption ; or

(*b*) engage in any other occupation without a special permit from the Health Officer of the local authority concerned or otherwise than in accordance with the conditions specified therein.

Prevention of infectious diseases transmissible from animals.

62. If in any local area, any infectious disease transmissible to man breaks out or is in the opinion of the Health Officer likely to break out, amongst cattle, or other animals, it shall be the duty of the Health Officer to

recommend to the local authority the adoption of such measures as he may deem necessary for suppressing or mitigating the disease or for preventing the outbreak or threatened outbreak thereof ; and the local authority shall consider such recommendations and take such action thereon as to it may seem suitable.

PART II.

Notified Infectious Diseases.

Notified diseases.

63. In this Part, notified disease means :—

(*a*) cerebro-spinal fever,
(*b*) chicken-pox,
(*c*) cholera,
(*d*) diphtheria,
(*e*) leprosy,
(*f*) measles,
(*g*) plague,
(*h*) rabies,
(*i*) scarlet fever,
(*j*) small-pox,
(*k*) typhus, or
(*l*) any other disease which the Government may from time to time by notification declare to be a notified disease for the purposes of this part either generally throughout the State or in such part or parts thereof, as may be specified in the notification.

Occupation of houses to prevent the spread of infection.

64. (1) The Health Officer may, in cases of emergency, with the sanction of the Deputy Commissioner, enter upon, occupy and use, or depute any person to enter upon, occupy and use without having recourse to the provisions of the Mysore Land Acquisition Act, 1894, any building or place which, in the opinion of the Health Officer, is required, and is suitable for any purposes connected with the prevention or control of infection from a notified disease :

Provided that, if the building or place is occupied, notice shall be given in writing to the occupant, or be conspicuously affixed on such building or place, not less than thirty-six hours before it is entered upon.

(2) The owner or lessee of such building or place shall be entitled to compensation for any damage or expenses incurred and to a reasonable rent for the period during which it had been occupied or used for any of the purposes referred to in sub-section (1). Such compensation and rent shall be fixed by the Deputy Commissioner.

(3) The Health Officer shall, when any such building or place ceases to be occupied or used for any of the purposes aforesaid, cause it to be thoroughly disinfected and cleansed.

Information regarding notified disease.

65. Every medical practitioner who, in the course of his practice, becomes cognizant of the existence of any notified disease in any private or public dwelling other than a public hospital, and

every manager of any factory or public building, every keeper of a lodging house, every head of a family and every owner or occupier of a house, who knows or has reason to believe that any person in any premises under his management, control or occupation is suffering from, or has died of, a notified disease,

shall, if the case has not been already reported, give information of the same with the least practicable delay—

(*a*) in municipal areas, to the executive authority, the Health Officer or a Sanitary or Assistant Sanitary Inspector, and

(*b*) in non-municipal areas, to the Health Officer, a Sanitary or Assistant Sanitary Inspector or the village patel.

Explanation.—In this section, 'medical practitioner' includes *hakim* or *vaidya*, whether registered or not.

Power of entry of local officers to take preventive measures.

66. (1) The Health Officer or any person authorized by him in this behalf may—

(*a*) at all reasonable hours, inspect with or without assistants any place in which any notified disease is reported or suspected to exist, without notice in the case of factories, workshops, workplaces, offices, business places and the like and after giving such notice, as may appear to him reasonable in other cases, including dwelling houses ; and

(*b*) take such measures as he may consider necessary to prevent the spread of such disease beyond such place.

(2) The powers conferred by sub-section (1) on the Health Officer may, in municipal areas, be exercised also by the executive authority or any person authorised by such authority.

Destruction of hut or shed to prevent spread of infection.

67. (1) If it appears to the Health Officer that the destruction of any hut or shed is necessary to prevent the spread of any notified disease, he may, after giving to the owner and the occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Such compensation as the local authority may consider reasonable, shall be paid to any person who in its opinion sustains loss by the destruction of any hut or shed under the powers conferred by sub-section (1); but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Closure of lodging houses.

68. If, on the application of the Health Officer, a Magistrate (not being a Magistrate of the Third Class) is satisfied that it is necessary in the interests of public health that a lodging house or any place where articles of food are sold, or prepared, stored, or exposed for sale, or distributed, should be closed on account of the existence or recent occurrence in such lodging house or place of a case of notified disease, the Magistrate may, by order, direct it to be closed until the expiry of such period as may be specified in the order or until it is certified by the Health Officer to be free from infection.

Infected clothes not to be sent to laundry.

69. No person shall—

(1) send or take to any laundry or public wash-house or any public water-course, tank or well, for the purpose of being washed, or to any place for the purpose of being cleaned, any clothing, bedding or other article which he knows to have been exposed to infection from any notified disease, unless such article has been disinfected by, or to

the satisfaction of, the Health Officer, or a registered medical practitioner, or unless under instructions from such a person, it is sent with proper precautions to a laundry for the purpose of disinfection with notice that it has been exposed to infection ; or

(2) place or cause or permit to be placed in any dust-bin or other receptacle for the deposit of refuse any matter which he knows to have been exposed to infection from a notified disease and which has not been disinfected.

Infected persons not to use public conveyance.

70. (1) No person who knows that he is suffering from a notified disease shall—

(*a*) enter any public conveyance used for the conveyance of passengers at separate fares, or

(*b*) enter any other public conveyance, without previously notifying the owner, driver or conductor thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notified disease shall permit that person to be carried—

(*a*) in any public conveyance used for the conveyance of passengers at separate fares, or

(*b*) in any other public conveyance, without previously notifying the owner, driver or conductor thereof that the person is so suffering.

(3) The owner, driver, or conductor of a public conveyance used for the conveyance of passengers at separate fares shall not convey therein a person whom he knows to be suffering from a notified disease, at any time when a passenger not suffering from such disease is being conveyed therein :

Provided that a person suffering from a notified disease may be conveyed in the public conveyance aforesaid, in such cases of emergency and subject to such restrictions and safeguards as may be notified by the Government.

(4) The owner or driver of any other public conveyance may refuse to convey therein any person suffering from a notified disease until he has been paid a sum

sufficient to cover any loss and expense which will be incurred by reason of the provisions of the next succeeding sub-section.

(5) If a person suffering from a notified disease is conveyed in a public conveyance, the person in charge thereof shall as soon as practicable give notice to the Health Officer of the local area in which the conveyance is usually kept and before permitting any other person to enter the conveyance shall cause it to be disinfected.

(6) The local authority when so requested by the person in charge of a public conveyance in which a person suffering from a notified disease has been conveyed shall provide for its disinfection.

Letting or sub-letting building occupied by an infected person.

71. No person shall, without a special permit from the Health Officer, let or sub-let, or permit or suffer any prospective tenant to enter, a building in which he knows or has reason to know that a person has been suffering from a notified disease, within the three months immediately preceding.

Prohibition of the exposure of other persons to infection.

72. (1) No person who knows that he is suffering from a notified disease shall expose other persons to the risk of infection by his presence or conduct in—

(*a*) any street or public place, or

(*b*) any market, theatre or other place of entertainment or assembly, or

(*c*) any school, college, play-ground or such other place, or

(*d*) any hotel, hostel, boarding house, choultry, rest-house, or club, or

(*e*) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from a notified disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of the Government or of a local authority, not below the rank of Sanitary or Assistant Sanitary Inspector,

or a medical practitioner registered under the Mysore Medical Registration Act, 1931 that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from a notified disease shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

Forbidding work in Infected premises.

73. (1) If a case of notified disease occurs on any premises, the Health Officer may, whether the person suffering from the disease has been removed from the premises or not, make an order forbidding any work to which this section applies, to be given out to any person living or working on those premises or in such part thereof as may be specified in the order, and any order so made may be served on the occupier of the factory from which the work is given out or on any contractor employed by such occupier.

(2) An order under this section may be expressed to be operative for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction of the Health Officer, or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) This section applies to the making, cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be notified by the Director of Public Health.

Prohibition of use of public library by infected person.

74. No person who knows that he is suffering from a notified disease shall take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

Disposal of bodies of posons dying while suffering from notified disease.

75. (1) No person having the charge or control of the body of any person who has died while suffering from a notified disease shall permit or suffer persons to come unnecessarily into contact with, or proximity to, the body.

(2) No person shall, without the sanction in writing of an officer of the Public Health Department of the

Government or of the local authority concerned, not below the rank of Sanitary or Assistant Sanitary Inspector, retain in any premises (elsewhere than in a public mortuary) for more than twelve hours the body of any person who has died while suffering from any notified disease.

(3) (*a*) If any such body (not being a body kept in a mortuary) remains undisposed of for more than twelve hours without the sanction referred to in sub-section (2), or

if the dead body of any person is retained in any building so as to endanger the health of the inmates of such building, or of any adjoining or neighbouring building,

any Magistrate may, on the application of any officer referred to in sub-section (2), order the body to be removed and disposed of within a specified time.

(*b*) A Magistrate may, in the case of the body of a person who has died while suffering from a notified disease, or in any other case in which he considers the immediate disposal of the body necessary, direct the body to be so disposed of, unless the friends or the relatives of the deceased undertake the disposal of the body within a time specified in the order.

(*c*) The expenses of the removal and disposal of any body under clause (*a*) or clause (*b*) shall be borne by the local authority ; but such expenses may be recovered, as if it were a tax due to it, by the local authority from any person who would have been legally liable therefor but for such removal and disposal, unless in the opinion of the local authority he is too poor to do so.

(4) (*a*) If any person dies in a hospital or a place of temporary accommodation for the sick, while suffering from a notified disease, and the Health Officer certifies that in his opinion it is desirable, in order to prevent the spread of infection, that the body should not be removed from such hospital or place except for the purpose of being taken

direct to a burial or burning ground or a crematorium for being forthwith buried or cremated, no person shall remove the body from the hospital or place except for such a purpose.

(*b*) When the body is removed for the purpose aforesaid, it shall forthwith be taken direct to a burial or burning ground or a crematorium, and there buried or cremated with the least practicable delay.

(5) Without the permission of the Health Officer or a Magistrate, no person shall cause or permit to be carried in a public conveyance the dead body of any person who has died while suffering from a notified disease.

Power of Magistrate to prohibit an assembly of more than fifty persons.

76. In the event of the prevalence of a notified disease in any local area, on the application of the Health Officer, any Magistrate having local jurisdiction shall have power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in his opinion such assemblages in such place, in such circumstances, or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

Power of Government to confer special powers on officers to control notified diseases.

77. (1) (*a*) In the event of the prevalence or threatened outbreak of a notified disease in any place or area, the Government may declare that such place or area is visited by, or threatened with, an outbreak of such disease.

(*b*) The power conferred on the Government by clause (*a*) may also be exercised, in the case of a place or area situated in a district, by the Deputy Commissioner of the district subject to the control of the Government.

(*c*) Any declaration made by the Government under clause (*a*) or withdrawal thereof in whole or in part shall be published in the Official Gazette and shall come into operation on the date of such publication.

(*d*) Any declaration made by the Deputy Commissioner under clause (*b*) or withdrawal thereof in whole or in part shall be published in the Official Gazette, and shall come into operation on the date of such publication.

(2) When a declaration under clause (*a*) or clause (*b*) of sub-section (1) comes into operation and until it is withdrawn, the Deputy Commissioner of the district or any person duly authorized by him by general or special order, or if empowered in this behalf by rules made under this Act, the Health Officer or any other officer of the local authority concerned or any officer of the Government other than the Deputy Commissioner may, subject to such exceptions, restrictions, limitations, and conditions and to such control as may be prescribed, either generally or in the case of the notified disease to which the declaration relates, exercise the following powers, namely :—

(*a*) power to order the evacuation of infected houses and houses adjoining them or in their neighbourhood, or generally of all houses in an infected locality ;

(*b*) power to make vaccination and preventive inoculations compulsory subject to the provisions of sub-section (3) ;

(*c*) power to direct—

(i) that persons arriving from places outside the local area, or residing in any building adjacent to, or in the neighbourhood of, an infected building, shall be examined by any specified medical officer or by any one of a specified class of medical officers ;

(ii) that the clothing, bedding or other articles belonging to such persons shall be disinfected, if there is reason to suspect that they have been exposed to infection ; and

(iii) that any such person shall give his address and present himself daily for medical examination at a specified time and place, for a period not exceeding ten days ;

(*d*) power to take such measures as may be necessary—

(i) in respect of, or in relation to, persons exposed to infection from any notified disease, or likely to infect other persons with any such disease, and

(ii) in respect of, or in relation to, articles exposed to infection from any notified disease, or likely to infect persons with any such disease,

including, in case (i) the placing of restrictions on the movements of such persons, and in case (ii) the destruction of such articles and the placing of restrictions on their export from, import into, or transport within, the local area ;

(*e*) power to direct that at any place within or outside the local area, any consignment of grain exported from, or imported into, such area by rail, road or otherwise, shall be examined and, if necessary, unloaded and disinfected in any specified manner ; and

(*f*) power to close all or any existing markets and to appoint special places where markets may be held.

(3) (*a*) If any person who, or a child in whose care, is sought to be vaccinated or inoculated in pursuance of the power referred to in clause (*b*) of subsection (2), declares before a Magistrate specially empowered by the Government in this behalf that as a result of a careful inquiry into the subject, he believes that such vaccination or inoculation will be injurious to his health or the health of the child, as the case may be, the Magistrate may, after giving notice to the Health Officer and hearing any representations made by him or on his behalf, exempt such person or child from vaccination or inoculation, on condition of the person aforesaid undertaking to subject himself and the members of his family to isolation of such description and for such period and to such further restrictions, if any, as may be directed by the Magistrate :

Provided that any exemption granted under this clause shall cease to have effect after a conviction under clause (*b*) and no exemption shall be granted to any person who has been so convicted.

(*b*) Any person who commits a breach of any undertaking given by him under clause (*a*) shall be punished with imprisonment which may extend to three months, or with fine, or with both.

(4) The local authority may, in its discretion, give compensation to any person who in its opinion has sustained substantial loss by the destruction of any property under the powers conferred by this section ; but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Destruction of rats, mice, etc.

78. (1) The occupier of every premises, or if the premises are unoccupied, the owner thereof, shall take such steps as may be reasonably practicable for the destruction of rats, mice and other animals susceptible to plague infesting such premises.

(2) Where the Health Officer is of opinion that the occupier or owner of any premises has failed to fulfil the obligation laid on him by sub-section (1), he may either—

(*a*) serve a notice on such occupier or owner, requiring him to take such steps and within such time as may be specified in the notice, or

(*b*) enter upon such premises and take such steps as may be necessary for the purpose of destroying the rats, mice and other animals susceptible to plague infesting the same, after giving not less than twenty-four hours' previous notice to such occupier or owner.

(3) Any expenses incurred under clause (*b*) of sub-section (2) may be recovered by the local authority concerned from the occupier or owner, as the case may be, as if it were a tax due from him to the local authority.

(Chapter VII—Prevention, Notification and Treatment of Diseases)

PART III.

Venereal Diseases.

Provision for treatment of venereal diseases by local authorities.

79. (1) A local authority may, and if so required by the Government shall, make such arrangements in its local area as may be directed by the Government for—

(*a*) the free diagnosis and treatment of persons suffering, or suspected to suffer, from venereal diseases; and

(*b*) the prevention of infection from such diseases.

(2) The local authority may, for the purpose mentioned in sub-section (1), enter into a contract—

(*a*) with any other local authority, or

(*b*) with a hospital or medical institution recognized by the Government in this behalf, or

(*c*) with the sanction of the Government, with any medical practitioner registered under the Mysore Medical Registration Act, 1931.

Patient to be instructed in methods of prevention of the spread of venereal disease.

80. Every physician or other person treating, or examining with a view to treatment, a person having a venereal disease shall, at the first visit—

(*a*) impress upon such person the necessity for treatment until the cure is effected;

(*b*) instruct him in regard to the measures necessary for preventing the spread of the disease; and

(*c*) furnish him with such other information relating to the disease as may be provided by the Director of Public Health.

Certain medical practitioners to certify as to freedom from venereal disease.

81. Every medical practitioner registered under the Mysore Medical Registration Act, 1931, and included in a panel published by the Government for the purposes of this section shall be bound, at the instance of a person desirous of obtaining a certificate under this section and on payment of a fee of five rupees, to examine such person, and if he finds that such person is not suffering from a venereal disease, or has been cured thereof, to furnish to such person a certificate to that effect in the prescribed form.

(Chapter VIII—Maternity and Child-welfare, Chapter IX—Mosquito Control)

PART IV.

Power to make Rules.

Rules for the prevention, treatment and control of certain diseases.

82. The Government shall have power to make such rules as it deems fit for the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases and the rules may declare by what authority or authorities such rules shall be enforced and executed.

CHAPTER VIII.

Maternity and Child-welfare.

Local authority to carry out maternity and child-welfare measures.

83. Every local authority shall be bound to carry out such measures pertaining to maternity and child-welfare as may be prescribed.

CHAPTER IX.

Mosquito Control.

Prohibition of mosquito-breeding in collections of water.

84. (1) If the provisions of this section have been extended to any local area, no person or local authority shall, after such extension—

(*a*) have, keep, or maintain within such area any collection of standing or flowing water in which mosquitœs breed or are likely to breed, or

(*b*) cause, permit. or suffer any water within such area to form a collection in which mosquitœs breed or are likely to breed,

unless such collection has been so treated as effectively to prevent such breeding.

Explanation.—Troughs used for cattle and in frequent use shall not, until the contrary is proved, be deemed to be collections of water in which mosquitœs breed or are likely to breed.

(2) The natural presence of mosquito larvæ in any standing or flowing water shall be evidence that mosquitœs are breeding in such water.

Treatment of mosquito-breeding places.

85. (1) The Health Officer may, by notice in writing require the owner or the occupier of any place containing any collection of standing or flowing water in which mosquitœs breed or are likely to breed, within such time as may be specified in the notice, not being less than twenty-four hours, to take such measures with respect to the same, or to treat the same by such physical, chemical or biological method, being measures or a method, approved by the Director of Public Health, as the Health Officer may consider suitable in the circumstances.

(2) If a notice under sub-section (1) is served on the occupier, he shall, in the absence of a contract, expressed or implied, to the contrary, be entitled to recover from the owner the reasonable expenses incurred by him in taking the measures or adopting the method of treatment, specified in the notice, and may deduct the amount of such expenses from the rent which is then, or which may thereafter be, due from him to the owner.

Health Officer's powers in case of default.

86. If the person on whom a notice is served under section 85 fails to refuses to take the measures, or adopt the method of treatment, specified in such notice within the time specified therein, the Health Officer may himself take such measures or adopt such treatment and recover the cost of doing so from the owner or occupier of the property, as the case may be, in the same manner as if it were a property tax.

Protection of anti-mosquito works.

87. Where, with the object of preventing the breeding of mosquitœs in any land or building, the Government or any local authority, or the owner or occupier at the instance of the Government or any local authority, has constructed any works in such land or building, the owner for the time being as well as the occupier for the time being of such land or building shall prevent its being used in any manner which causes, or is likely to cause, the deterioration of such works, or which impairs, or is likely to impair, their efficiency.

Prohibition of interference with such works.

88. (1) No person shall, without the consent of the Health Officer, interfere with, injure, destroy or render unless, any work executed or any material or thing placed in, under, or upon any land or building, by or under the

orders of the Health Officer with the object of preventing the breeding of mosquitœs therein.

(2) If the provisions of sub-section (1) are contravened by any person, the Health Officer may re-execute the work or replace the materials or things, as the case may be, and the cost of doing so shall be recovered from such person in the same manner as if it were a property tax.

Power of Health staff to enter and inspect premises.

89. For the purpose of enforcing the provisions contained in this Chapter, the Health Officer or any of his subordinates not below the rank of Sanitary or Assistant Sanitary Inspector may, at all reasonable times, after giving such notice in writing as may appear to him reasonable, enter and inspect any land or building within his jurisdiction ; and the occupier or the owner as the case may be, of such land or building, shall give all facilities necessary for such entry and inspection, and supply all such information as may be required of him for the purpose aforesaid.

CHAPTER X.

Sanitation and Buildings.

PART I.

Residential Areas.

Notification of residential areas.

90. (1) Every urban local authority shall, within one year from the commencement of this Act or within such further time as the Government may allow in the case of any such authority, notify in the prescribed manner the localities, divisions, wards, streets or portions of streets in its local area which shall be reserved for residential purposes.

(2) An urban local authority may, at any time subsequent to the issues of a notification under sub-section (1), notify additional localities, divisions, wards, streets or portions of streets, as areas which shall be reserved for residential purposes.

(3) A notification issued under sub-section (1) or sub-section (2) may declare that operations in any factory, workshop or workplace in existence at the time when it

comes into force, or that the continuance of any offensive trade carried on by any person at such time, shall be subject to such restrictions, limitations and conditions as may be specified in the notification.

Approval of Director of Public Health and of Director of Town Planning to be obtained for notification.

91. (1) Before issuing a notification under section 90, the local authority shall—

(*a*) obtain the approval both of the Director of Public Health and of the Director of Town Planning in regard to—

(i) the suitability of the areas proposed to be reserved for residential purposes; and

(ii) the restrictions, limitations and conditions, if any, proposed to be imposed under sub-section (3) of section 90; and

(*b*) publish in the prescribed manner for general information the situation and limits of the areas proposed to be reserved for residential purposes and the restrictions, limitations and conditions, if any, proposed to be imposed under sub-section (3) of section 90 and consider all objections received by it within six weeks of such publication.

(2) In the event of a difference of opinion between the local authority and the Director of Public Health or the Director of Town Planning, the matter shall be referred to the Government whose decision shall be final.

Appeal against notification.

92. Any person aggrieved by the issue of a notification under section 90, may appeal to the Government whose desision shall be final.

Consequences of notification.

93. Upon the issue of a notification under section 90, the following consequences shall ensue, namely :—

(*a*) The construction or establishment of any new factory, workshop or workplace, or the carrying on of any new offensive trade in the areas specified in the notification shall be absolutely prohibited.

(*b*) In the case of any factory, workshop or workplace in existence at the time when the notification comes into force or of any offensive trade in existence at such time, the restrictions, limitations and conditions, if any specified in the notification, shall be observed in the areas aforesaid.

Explanation (1) .—If work in any factory, workshop, or workplace existing at the time when the notification under section 90 comes into force or any offensive trade carried on by any person at such time ceases to be carried on for a continous period of not less than one year, the resumption of work in such factory, workshop, or workplace or of such offensive trade, as the case may be, shall, unless the Government otherwise orders, be deemed to be absolutely prohibited under clause (*a*).

Explanation (2).—In the case referred to in Explanation (1), where the period exceeds six months but does not extend to one year, work in the factory, workshop or workplace or the offensive trade, as the case may be, shall not be resumed without the written permission of the Health Officer unless the Government otherwise orders.

Extension of sections 90 to 93 to non-urban local authorities.

94. The Government may, by notification, direct that the provisions of sections 90 to 93 shall apply to any non-urban local authority specified in such notification; and thereupon, the provisions of those sections shall apply to such authority as if it were an urban local authority and as if the reference to the commencement of this Act in sub-section (1) of section 90 were a reference to the date of publication of the notification under this section.

PART II.

Control over Insanitary Buildings.

New building not to be erected on certain sites.

95. No person shall erect a new building on any ground which has been filled up with fæcal or offensive vegetable or offensive animal matter or upon which any such matter has been deposited, unless and until the Health Officer certifies that such matter has been properly removed by excavation or otherwise, or has become or been rendered innocuous.

Cleansing of court, yard or passage used in common.

96. (1) If any court, yard or passage which is used in common by the occupants of two or more buildings, but is not a public street, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the Health Officer, he may cause such court, yard or passage to be swept and cleansed.

(2) The local authority may recover any expenses reasonably incurred by the Health Officer under sub-section (1) from the occupants of the buildings which front or abut on the court or yard, to which the passage affords access, in such proportions as may be determined by the Health Officer.

Dwelling house unfit for human habitation to be vacated.

97. (1) If any dwelling house or portion thereof appears to the Health Officer to be unfit for the purpose of human habitation, he may, in cases not falling under section 47, apply to the local authority to prohibit the use thereof for such purpose, and such authority shall make an order prohibiting the use of such dwelling house or portion for human habitation until in the opinion of the Health Officer it is rendered fit therefor :

Provided that before making an order under this sub-section, the local authority shall give the owner and the occupier or occupiers, if any, concerned a reasonable opportunity of showing cause why it should not be made.

(2) When any order has been made under sub-section (1), the executive authority shall cause a copy of the order to be communicated to the owner as well as to every occupier concerned ; and every such occupier shall be bound to cease to inhabit the dwelling house or portion thereof, as the case may be, within thirty days after the communication of the order to him.

(3) The owner of any dwelling house or portion of a dwelling house in respect of which an order under sub-section (1) is in force, shall not let or occupy, or permit to be let or occupied, such dwelling house or portion, or any part thereof, as a human habitation.

PART III.

Abatement of Overcrowding.

Definitions.

98. In this Part—

(1) "tenement" means a dwelling house and includes—

(*a*) any part of a dwelling house which is capable of separate occupation ; and

(*b*) a students' hostel under public or recognized control, but does not include a dwelling house or part of a dwelling house occupied by the owner thereof ; and

(2) "landlord" means the immediate landlord or the occupier or occupiers of a tenement.

Duties of landlord.

99. A landlord of a tenement—

(*a*) shall maintain it in a habitable condition ; and

(*b*) except temporarily on occasions such as marriages and the like, shall not cause or permit the tenement to be overcrowded :

Provided that no proceedings shall be instituted against the landlord in respect of any infringement by him of the provisions of this section, unless a notice in writing that the tenement is not in a habitable condition or that it is overcrowded, has been served upon the landlord or his agent by the Health Officer, and the landlord fails within such time as may be specified in such notice to take such steps as may be reasonably open to him for putting the tenement in a habitable condition or for securing the abatement of the overcrowding therein, as the case may be including, if necessary, the taking of legal proceedings for possession of the tenement.

Power to make rules.

100. The Government shall have power to make rules for determining—

(*a*) whether a tenement or any class of tenements is or is not maintained in a habitable condition within the meaning of section 99 ; and

(*b*) whether a tenement or any class of tenements is or is not overcrowded within the meaning of that section.

CHAPTER XI.

Lodging Houses.

Lodging houses to be registered.

101. No person shall keep a lodging house or receive a lodger therein unless he is registered as the keeper thereof under this Act :

Provided that a person who immediately before the commencement of this Act was keeping a lodging house shall, for a period of three months after such commencement, be deemed to have been registered as the keeper thereof.

Register of lodging houses.

102. Every executive authority shall keep a register in which shall be entered—

(*a*) the full name and the place of residence of every person registered as the keeper of a lodging house;

(*b*) the situation of every such lodging house;

(*c*) the number of persons authorized to be received in the lodging house; and

(*d*) the full names and the places of residence of any persons who are to act as deputies of the keeper of the lodging house.

Conditions of registration and of renewal of registration.

103. (1) An executive authority on receiving from any person an application for registration, or for the renewal of his registration as a keeper of a lodging house, and on payment by him of such fee, if any, as may be prescribed for the purpose, shall register the applicant in respect of the lodging house named in the application or renew his registration in respect thereof and issue to him a certificate of registration or of renewal o fregistration :

Provided that the executive authority—

(*a*) shall not register an applicant until the Health Officer has inspected the premises named in the application and has recommended such registration; and

(*b*) may refuse to register, or to renew the registration of, an applicant if he is satisfied that—

(i) the applicant or any person employed or proposed to be employed by the applicant at the lodging house as a deputy or otherwise is not a fit person whether by reason of age or otherwise, to keep or to be employed at a lodging house; or

(ii) the premises are not suitable for use as a lodging house or not as regards sanitation and water-supply and in other respects including means of escape in case of fire, suitably equipped for use as such; or

(iii) the use of the premises as a lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.

(2) The registration, or the renewal of the registration of a person as a keeper of a lodging house shall expire at the end of the year for which it is granted unless, for special reasons, the executive authority considers that it should expire at an earlier date, when it shall expire at such earlier date which shall be specified in the certificate of registration or of renewal of registration.

(3) If an executive authority refuses to grant or renew registration under this section he shall deliver to the applicant a statement in writing of the grounds on which his application is refused.

(4) If, at any time, a person registered as he keeper of a lodging house applies for the removal from the register of the name of any person entered therein as a deputy of the keeper, or for the insertion therein of the name of any other person, being a person approved by the executive authority, whom the keeper proposes to employ as a deputy, the executive authority shall alter the register accordingly and make any consequential alterations in the certificate of registration.

Appeal to local authority.

104. A person aggrieved by the refusal of an executive authority to grant or renew registration under section 103 [1][or by the suspension of registration by an executive authority under section 106-A] may appeal to the local authority.

105. The Government shall have power to make rules—

Rules for the upkeep and maintenance of lodging houses.

(*a*) for fixing the number of persons who may be received into a lodging house and for the separate accommodation of the sexes therein;

(*b*) for promoting cleanliness and ventilation in lodging houses and requiring the walls and ceilings thereof to be limewashed or treated with some other suitable preparation at specified intervals;

(*c*) with respect to the taking of precautions when any case of infectious disease occurs in a lodging house; and

(*d*) generally for the well-ordering lodging houses.

1. Inserted by Act XVI of 1949.

Notice to be affixed outside the lodging house.

106. (1) The keeper of a lodging house shall, if so required by the executive authority, affix, and keep affixed and undefaced and legible, a notice with the words "Registered Lodging House" in some conspicuous place on the outside of the house.

(2) The keeper of a lodging house and every other person having the care and taking part in the management thereof shall at all times allow the executive authority, the Health Officer or any other person authorised by the executive authority or Health Officer in this behalf, to have free access to all parts of the house.

Suspension of registration by executive authority.

[1][**106-A.** On receipt of a report from the Health Officer or the person authorised under sub-section (2) of section 106, the executive authority, if satisfied that there are reasonable grounds to believe that a registered keeper of a lodging house has contravened the provisions of this Chapter or a rule or bye-law made under this Act applicable to him, may, without prejudice to any other action against the keeper of the lodging house, suspend his registration for a period not exceeding ten days and in the case of subsequent contravention suspend his registration for such period as the executive authority thinks fit or cancel his registration.]

Cancellation of registration by Court.

107. When the registered keeper of a lodging house is convicted of any offence under this Chapter or under section 65 or a rule or bye-law applicable to him made under this Act, the Court by which he is convicted may cancel his registration as a lodging house-keeper and may order that he be disqualified for such period as a Court thinks fit for being again registered as such keeper.

Powers of seizure, etc., of executive authority.

[1][**107-A.** (1) Where—

(i) the grant or renewal of registration is refused under section 103 ; or

(ii) the registration is suspended or cancelled under section 106-A ; or

(iii) the registration is cancelled under section 107 ;

the executive authority or any other person authorised

1. Inserted by Act XVI of 1949.

by him in this behalf may seize and detain articles of food or drink and any vessel or utensil used in manufacturing, preparing or keeping such articles, and close down and lock the lodging house.

(2) Articles seized under sub-section (1) may be destroyed or disposed of in such manner as may be prescribed.]

CHAPTER XII.

Food Control.

Prohibition of sale of unsound food.

108. (1) No person shall—

(*a*) sell, expose or hawk about for sale, or keep store or prepare for sale, or give or distribute any animal intended for human consumption which is diseased, or the flesh of any animal which has died on account of natural causes; or

(*b*) sell, expose or hawk about for sale, or keep, store, manufacture or prepare for sale, or give or distribute any food or drug intended for human consumption which is unfit for such purpose or is unwholesome.

(2) In any prosecution under sub-section (1), the Court shall, unless and until the contrary is proved, presume—

(*a*) that any animal found in the possession of a person who is in the habit of keeping animals of that class for sale for human consumption, has been kept by such person for sale, and

(*b*) that any food or drug found in the possession of a person who is in the habit of keeping, storing, manufacturing or preparing such food or drug for sale for human consumption, has been kept, stored, manufactured or prepared by such person for sale.

Punishment for contravening provisions of section 108, through others.

109. (1) Any person who does any of the acts mentioned in sub-section (1) of section 108 or in clauses (*a*) to (*d*) of sub-section (1) of section 5 of the Mysore Prevention of Adulteration Act, 1921, through others employed by him, whether the latter be adults or children, shall be liable to punishment for such act as if he had himself done the same.

(2) If a child under seven years of age does any of the acts aforesaid, the employer of the child, or the parent or other person having the care and custody of the child, as the case may be, shall be liable to punishment for such act as if he had himself done the same.

Flesh of dead animal not to be consumed.

110. No person shall knowingly consume the flesh of any animal which has died on account of natural causes.

Explanation.—It shall be no defence to a prosecution under this section that the flesh was consumed as a matter of custom, or as a matter of right on account of services rendered in removing dead cattle, or on any other ground.

Importing meat into local area.

111. (1) No person shall bring into any local area, without the permission in writing of the Health Officer thereof, the flesh of any animal slaughtered outside the local area otherwise than in a slaughterhouse maintained or licensed by the Government or by a local authority.

(2) Any flesh brought into the local area in contravention of sub-section (1) may be seized by the Health Officer or any officer or servant of the local authority authorised by him in that behalf, and sold or otherwise disposed of as the Health Officer may direct; and in case of sale, the sale proceeds shall be credited to the funds of the local authority.

(3) Nothing in this section shall be deemed to apply to —

(*a*) cured or preserved meat, or

(*b*) flesh or meat carried through any local area for consumption outside the limits thereof and not stored anywhere within such limits in the course of transit, or

(*c*) flesh or meat brought into the local area by any person for immediate domestic consumption and not for sale :

Provided that the local authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

Power of Health Officer to enter premises used for food trade.

112. The Health Officer may, without notice, enter any place at any time, by day or by night, where any article of food is being manufactured, prepared, exposed or stored for sale, and inspect such article and any utensil or vessel used for manufacturing, preparing or containing the same.

Powers of Health Officer to deal with carriers of disease handling food.

113. (1) The Health Officer may, at any time, examine any person engaged in selling, or in manufacturing or preparing for sale, or in any manner whatsoever handling any article of food intended for sale.

(2) If on such examination the Health Officer finds that such person is suffering from, or harbouring the germs of, any infectious disease, such person shall not take part in selling any article of food or in manufacturing, preparing or in any manner handling any article of food intended for sale, until the Health Officer certifies in writing that he is free from infection from such disease.

Investigation of diseases caused by milk or dairy produce.

114. (1) If the Health Officer has reason to believe—

(*a*) that any person within the local area over which he has jurisdiction is suffering from an infectious disease attributable to milk or dairy produce supplied within such area, or

(*b*) that the consumption of any milk or dairy produce supplied within such local area is likely to cause any person therein to suffer from an infectious disease,

the Health Officer may require the person supplying the milk or dairy produce to furnish within such time as may be fixed by the Health Officer, a complete list of all dairies (whether situated within or outside the limits of the local area) from which that person's supply of milk or dairy produce is derived or has been derived during the six weeks immediately preceding.

(2) If such supply or any part of such supply is obtained, not directly from a dairy but through some other person, the Health Offier may make a similar requisition upon such other person.

(3) Every person on whom any requisition is made under sub-section (1) or sub-section (2) shall be bound to comply therewith.

Inspection of dairy by Health Officer.

115. (1) The Health Officer may inspect any dairy referred to in section 114 and the milch-cattle and the employees therein, and if, on such inspection, the Health Officer is of opinion that any infectious disease is caused, or is likely to be caused, by the consumption of the milk or dairy produce supplied from such dairy, he may make an order prohibiting the supply of any milk or dairy produce for human consumption from such dairy.

(2) An order made under sub-section (1) shall be forthwith cancelled by the Health Officer on his being satisfied that the milk supply has been changed, or the employees objected to by him have ceased to work at the dairy, or that the cause of infection has been removed.

(3) If an order made under sub-section (1) or cancelled under sub-section (2) relates to a dairy situated outside the limits of the local area, the Health Officer shall also inform the local authority within whose jurisdiction the dairy is situated.

(4) When an order is made under sub-section (1) the Health Officer may either—

(*a*) permit the milk or other produce of the dairy, after being boiled or treated in such other manner as he may direct, to be sold or used as animal food, subject to any reasonable restrictions he may impose, or

(*b*) cause such milk or dairy produce to be destroyed.

(5) No person shall sell or supply any milk or dairy produce in contravention of the provisions of this section.

CHAPTER XIII.

Fairs and Festivals.

Notification of fairs and festivals by Government.

116. (1) The Government may, by notification—

(*a*) declare that any local area or part of a local area in which a fair or festival is to be held shall, for the purposes of this Chapter, be a notified fair or festival centre for such period as may be specified in the notification ; and

(*b*) define the limits of the area which shall, for the purposes aforesaid, be the site for the fair or festival.

(2) The provisions of this Chapter shall apply only to fairs and festivals in connexion with which a notification under sub-section (1) has been issued.

Levy of pilgrim tax.

117. (1) The Government or the local authority with the approval of the Government, may, by notification, impose, during a period to be specified in the notification, a tax on persons leaving a notified fair or festival centre or any place within such distance therefrom as may be specified in the notification.

(2) Every such notification shall specify the rates at which the tax shall be levied :

Provided that the tax shall not exceed two annas for every person.

(3) The Government shall have power to make rules regarding—

(*a*) the collection of the tax ;

(*b*) the ascertainment of the expenses incurred in collecting tax ;

(*c*) in case the tax is collected by any authority (other than the local authority concerned) or any person, the payment of the proceeds of the tax after deducting the expenses of collecting the same, to the local authority ;

(*d*) in the case referred to in clause (*c*), the returns and information to be furnished by the authority or person collecting the tax to the local authority concerned, and the decision of disputes between the authority or person aforesaid and such local authority ; and

(*e*) the decision of disputes between two or more local authorities.

Levy of tolls on vehicles.

118. (1) The Government, or the local authority with the approval of the Government, may, by notification, levy tolls on any vehicle (other than a motor vehicle)

or any animal entering a notified fair or festival centre, for such period, at such rates, and subject to such exemptions, as may be specified in the notification.

(2) The Government shall have power to make rules regarding—

(*a*) the collection of tolls ;

(*b*) the composition of the tolls payable by any person ;

(*c*) the seizure, detention and disposal of any vehicle or animal in respect of which toll is not paid ;

(*d*) the duty of the police to assist persons authorised to collect tolls and the powers of the police in that behalf ; and

(*e*) the penalties to be imposed in case of evasion of tolls or of resistance to the seizure and detention of any vehicle or animal in respect of which toll is not paid.

Notice to be given of fair or festival.

119. (1) The person or authority in charge of any fair or festival shall, not less than sixty days before its commencement, intimate to the executive authority or Health Officer of the local authority concerned, or in case the fair or festival is to be held within the jurisdiction of more than one local authority, to the executive authority or Health Officer of each of the local authorities concerned, the date of the commencement of such fair or festival, and the period for which it will last.

(2) The person or authority in charge of the fair or festival shall also furnish such other particulars relating to the fair or festival as may be called for by the executive authority or Health Officer of the local authority or any of the local authorities concerned.

Sanitary arrangements, etc.

120. The local authority within whose jurisdiction a fair or festival is held, or if it is held within the jurisdiction of two or more local authorities, any person or committee appointed by such local authorities jointly shall make provision for—

(1) the demarcation and preparation of the site of the fair or festival ;

(2) the clearing and draining of the site;

(3) the disposition of the several parts of the fair or festival, including the alignment of roads within the site;

(4) the supply in sufficient quantities of water fit for drinking and cooking purposes for the use of persons resorting to the fair or festival and the proper preservation of such water;

(5) the accommodation of pilgrims and visitors to such extent as may be practicable;

(6) the lighting of the fair or festival centre;

(7) the supply by suitable persons of wholesome food, at reasonable rates, and in such quantities as may be necessary to persons resorting to the fair or festival and the proper supervision and inspection of all food prepared or offered for sale or stored or in course of transit within the fair or festival centre;

(8) the collection, removal and disposal of refuse, rubbish and sewage;

(9) the supply and maintenance of suitable latrines for the use of persons resorting to the fair or festival;

(10) the detection and segregation of cases of infectious diseases and the prevention of the introduction and spread of such diseases;

(11) the employment of adequate medical staff, the provision of medical relief, and the furnishing of hospital accommodation both for general and isolation purposes; and

(12) such other purposes as may be prescribed.

Health Officer to supervise the arrangements.

121. The arrangements mentioned in section 120 shall be executed under the supervision and control of the Health Officer concerned, or if the fair or festival is held within the jurisdiction of more than one local authority, under the supervision and control of the Health Officer of one of such local authorities designated by the person or committee referred to in section 120 or in case no Health Officer is so designated, under the supervision and control of the Health Officers concerned within their respective local areas.

Power to enter and seize unwholesome food.

122. (1) The Health Officer, or a Sanitary or Assistant Sanitary Inspector of the local authority or of any of the local authorities concerned, or any officer of the Government or of any such local authority appointed by the Government in this behalf, may—

(*a*) enter and inspect any building or shop in the fair or festival centre, which is a source of food supply;

(*b*) for the purpose of inspection, have access to any source of water supply on such centre or within such distance therefrom as the Government may, by general or special order, determine; and

(*c*) seize any food prepared or offered for sale or stored or in course of transit within the fair or festival centre which he has reason to believe, is unwholesome or unfit for human consumption, and destroy the same forthwith if, in his opinion, such food is of a perishable nature or the value thereof does not exceed three rupees.

(2) (*a*) Any officer seizing any food under clause (*c*) of sub-section (1) shall, if it is not destroyed under that clause, report the seizure to such authority or person as may be prescribed in that behalf.

(*b*) If the authority or person aforesaid is of opinion that the food is unwholesome or unfit for human consumption, such authority or person may, by order in writing, direct the food to be destroyed, and any expenses incurred in this behalf (including the cost, if any, of analysing the food or a sample thereof) shall be recoverable from the person from whom the food was seized, as if it were a tax due from him to the local authority or any of the local authorities concerned.

(*c*) If the authority or person aforesaid is of opinion that such food is wholesome and fit for human consumption, the food shall be returned to the person from whom it was seized; and the cost, if any, of analysing the food or a sample thereof shall be borne by the local authority or local authorities concerned.

(*Chapter XIII—Fairs and Festivals*)

Occupation of building, etc., required in connection with fair or festival.

123. (1) The local authority may, in cases of emergency, with the sanction of the Deputy Commissioner, depute any person to enter upon, occupy and use, without having recourse to the provisions of the Land Acquisition Act, 1894, any land or any building not being a dwelling-house in the notified fair or festival centre which, in the opinion of the Health Officer, is required and is suitable for any purposes connected with the fair or festival, such as the construction of pilgrim sheds, water-sheds, hospitals, segregation-sheds, latrines, and the like :

Provided that if the land or building is occupied notice shall be given in writing to the occupant or be conspicuously affixed on such land or building, not less than twenty-four hours before it is entered upon.

(2) The owner or lessee of such land or building shall be entitled to compensation for any damage or expenses incurred, and to a reasonable rent for the period during which it had been occupied or used for any of the purposes referred to in sub-section (1). Such compensation and rent shall be fixed by the Deputy Commissioner.

(3) The local authority shall, when any such land or building ceases to be occupied or used for any of the purposes aforesaid, cause it to be thoroughly disinfected and cleansed.

Control over private sources of water-supply.

124. (1) The Health Officer may, by notice in writing, require the owner of, or other person having control over, any source of water-supply situated on the fair or festival site, or within such distance therefrom as the Government may, by general or special order determine, to close or disinfect such source within a specified time if, in the opinion of the Health Officer, it is likely to engender or cause the spread of disease amongst persons resorting to the fair or festival.

(2) If the owner or person aforesaid fails or neglects to comply with any notice issued under sub-section (1) within the time specified therein, the Health Officer may himself take the necessary action; and the whole of the expenses incurred in doing so or such part thereof as the Health Officer may determine to be reasonable, shall be

recovered from such owner or person as if it were a tax due from him to the local authority or any of the local authorities concerned.

Licensing of houses to accommodate visitors to fair or festival.

125. (1) The owner or occupier of a house, not being a lodging house registered under Chapter XI, situated in any notified fair or festival centre shall not, for purposes of gain,, accommodate in the house visitors to the fair or festival, without obtaining a licence in that behalf from the executive authority or the Health Officer of the local authorities concerned.

This provision shall not apply to tenancies from month to month or for a period exceeding one month.

(2) Every application for a licence under sub-section (1) shall be in writing, shall contain such information as may be required by the authority to whom it is addressed, and shall be accompanied by such fee as may be prescribed for the grant of the licence.

(3) (*a*) If it appears to the executive authority or the Health Officer, as the case may be, that the house is suitable for accommodating visitors to the fair or festival, he may issue a licence, in the prescribed form and subject to the prescribed conditions, for the accommodation in the house of such number of visitors as may, in his opinion, be conveniently received therein, having regard to the number of persons resident in the house, whether as members of the family or as servants of the owner or occupier.

(*b*) The licence shall also specify—

(i) the maximum number of persons (residents and visitors) who may be accommodated in the house at any one time; and

(ii) the date until which it shall remain in force.

(4) If the authority granting the licence is satisfied that the licensed house has, subsequent to the grant of the licence, become unfit for the accommodation of visitors, or if the licensee is convicted of any offence punishable under this Chapter, such authority may revoke the licence or, at his discretion, may suspend the licence for such period or until the fulfilment of such condition, as he may specify.

Extension of provisions of chapter to certain areas.

126. The Government may, by notification and subject to such modifications, if any, as may be specified therein, extend all or any of the foregoing provisions of this Chapter or any other provision in this Act connected therewith, to any local area or part of a local area in which a large number of persons attending a fair or festival held in a notified fair or festival centre halt, or are expected to halt, on their way to, or return from such centre.

CHAPTER XIV.

FINANCE.

Manner of spending proceeds of taxes and tolls levied in respect of fairs and festivals.

127. If in respect of any fair or festival, any tax or toll is levied under section 117 or section 118 of this Act, or under any Act or Rule constituting a local body, the local authority shall have power to spend the proceeds thereof in connection with the fair or festival or for the benefit generally of the local area concerned, in such manner as the Government may, by general or special order, authorize.

Earmarking of revenue by local authorities for expenditure on public health.

128. (1) Every municipality shall earmark not less than 30 per cent of its income from all sources other than Government grants, for expenditure on the advancement of public health in its local area, including expenditure on medical relief, and every local body other than a Municipal Council shall similarly earmark not less than 12½ per cent of its income from such sources :

Provided that the Government may, for financial or other reasons, vary the provisions of this sub-section to such extent as it may think fit in the case of any local bodies.

(2) (*a*) The Government may, by notification authorize any local authority or class of local authorities to incur expenditure on any public health purpose specified in the notification, notwithstanding anything contained in the Act under which such local authority or authorities have been constituted.

(*b*) Any expenditure incurred by a local authority, which is authorized by clause (*a*) shall be taken into account for the purposes of sub-section (1).

CHAPTER XV.

RULES, BYE-LAWS, PENALTIES, ETC.

Power of Government to make rules.

129. (1) The Government shall, in addition to the rule-making powers conferred on it by any other provision contained in this Act, have power to make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), the Government may make rules—

(*a*) with reference to all matters expressly required, or allowed, by this Act to be prescribed; and

(*b*) regulating the situations in which sanitary conveniences for the use of the public shall be constructed by a local authority, and the number of such sanitary conveniences.

Penalty for breach of rules.

130. (1) In making a rule under Section 82, the Government may provide that a breach of such rule shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

(2) In making a rule under any other provision contained in this Act, the Government may provide that a breach of such rule shall be punishable—

(i) with fine which may extend to one hundred rupees, and in case of a continuing breach, with fine which may extend to thirty rupees for every day during which the breach continues after conviction for the first breach; or

(ii) with fine which may extend to twenty rupees for every day during which the breach continues after receipt of notice from the executive authority or the Health Officer to discontinue such breach.

Procedure for making and the effect of rules.

131. (1) The power to make rules under this Act shall be subject to the following conditions :—

(*a*) A draft of the rules shall be published in the *Mysore Gazette*.

(*b*) Such draft shall not be further proceeded with until six weeks after such publication or until such later date as the Government may appoint.

(2) All rules made under this Act shall be published in the *Mysore Gazette* and upon such publication shall have effect as if enacted in this Act.

Bye-laws by local authorities.

132. Any local authority may make bye-laws, not inconsistent with this Act or the rules made thereunder or with any other law, for carrying out all or any of the purposes of this Act.

Breach of bye-laws.

133. In making a bye-law the local authority may provide that a breach thereof shall be punishable—

(*a*) with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach, or

(*b*) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the executive authority or the Health Officer to discontinue such breach.

Procedure for making or altering bye-laws.

134. Bye-laws made by a local authority under sections 132 and 133 shall always be subject to the previous sanction of the Government and shall also be subject,—

(*a*) in case the local authority is a City Municipal Council, to sub-sections (2) and (3) of section 51 and section 52 of the Mysore City Municipalities Act, 1933; and

(*b*) in case the local authority is a Town Municipal Council, to sub-sections (2) and (3) of section 48 and section 49 of the Mysore Town Muncipalities Act, 1933.[1]

Penalties to offences against Act, etc.

135. (1) Whoever,—

(*a*) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I; or

(*b*) contravenes any rule or order made under any of the provisions so specified; or

1. Repealed and re-enacted as Mysore Act XXII of 1951.

(*c*) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions, shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

(2) Whoever after having been convicted of—

(*a*) contravening any of the provisions of this Act specified in the first and second columns of Schedule II; or

(*b*) contravening any rule or order made under any of the provisions so specified; or

(*c*) failing to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions;

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

Explanation.—The entries in the third column of Schedules I and II headed "Subject" are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

Penalty for preventing entry of executive authority or Health Officer.

136. Every person who prevents the executive authority or the Health Officer or any person to whom the executive authority or the Health Officer has lawfully delegated his powers of entering on or into any land or building, from exercising his lawful power of entering thereon or thereinto, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(*Chapter XV—Rules, Bye-Laws, Penalties, Etc.*)

MISCELLANEOUS.

Appeal against decisions of Health Officer.

137. (1) An appeal shall be to the Director of Public Health against a decision of the Health Officer given under section 29, section 32, section 40, section 43, section 45, section 67 or section 95 of this Act.

(2) Any other decision of the Health Officer shall be subject to such appeal as may be prescribed.

Method of serving notices.

138. (1) When any notice is required to be given by this Act or by any rule, bye-law, regulation or order made under it, such notice shall be given—

(*a*) by giving or tendering the notice to such person ; or

(*b*) if such person is not found, by leaving such notice at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family ; or

(*c*) if such person does not reside in the local area and his address elsewhere is known to the executive authority, by sending the same to him by post, registered ; or

(*d*) in none of the means aforesaid be available, by affixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the notice, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

Cognizance of offences against the Act.

139. No person shall be treid for any offence against the provisions of this Act, or of any rule, or bye-law made under it, unless complaint is made within three months of the commission of the offence by the police, or the executive authority or the Health Officer or by a person expressly authorized in this behalf by the local authority, the executive authority or the Health Officer :

Provided that nothing contained in this section shall affect the provisions of the Code of Criminal Procedure, 1904, in regard to the power of certain Magistrates to

take cognizance of offences upon information received or upon their own knowledge or suspicion.

Power to compound offences.

140. The executive authority or the Health Officer may compound any offence against this Act or the rules or bye-laws made thereunder which may, by rules made by the Government, be declared compoundable.

The power to compound any offence so declared may also be exercised by such other authority or person as may be authorised in that behalf by rules made by the Government.

Powers of Police Officers to arrest offenders against Act, etc.

141. Any police officer who sees a person committing an offence against any of the provisions of this Act or of any rule or bye-law made thereunder, may arrest such person, if his name and address are unknown to the officer and such person on demand declines to give his name and address or gives a name and address which the officer has reason to believe to be false.

Powers of executive officer and public health staff to arrest offenders against Act, etc.

142. (1) The executive officer of a local authority or any member of the Public Health establishment of a local authority not below the rank of Sanitary or Assistant Sanitary Inspector, who sees a person committing any of the offences specified in sub-section (2) in the area over which the local authority has jurisdiction, may arrest such person, if his name and address are unknown to the executive officer or member aforesaid and such person on demand declines to give his name and address or gives a name and address which such officer or member has reason to believe to be false. Any person so arrested shall be handed over to the officer in charge of the nearest police station as expeditiously as possible.

(2) The offences referred to in sub-section (1) are—

(*a*) offences against any of the provisions of this Act, or of any rule or bye-law made thereunder; and

(*b*) offences falling under any of the provisions of the Acts, mentioned below, if such provisions are in force in the area over which the local authority has jurisdiction—

(i) sections 130, 131 (1), 150 (1), 150 (2), 151, 152, 153, 154 (1), 158 (a), 158 (b), 161, 162 (1),

162 (2), 165 (1), 165 (2), 167 (2), 168 (2), 172 (1), 172 (2), 172 (3), 174 (4), 175 (5), 178 (5), 180 (3), 181 (2), and 184 of the Mysore City Municipalities Act, 1933;

[1][(i-a) sections 103, 104, 105, 107, 124, 128, 129, 144, 145, 146, 147, 148, 149, and 189 and sections 93, 94, 95, 96, 98, 101, 112, 126 and 130 read with section 161 of the Bangalore Municipal Law, 1897.]

(ii) sections 119, 120 (1), 136 (1), 136 (2), 137, 138, 139 (1), 143, 144 (1), 144 (2), 145, 147, 148 (2), 150 (1), 151 (1), 152 (5), 154 (4), 156 (5), 157 (3), 158 (2), and 161 of the Mysore Town Municipalities Act, 1933[2];

(iii) section 95 of the Mysore Minor Municipalities Act, 1933[2];

(iv) sections 56 and 57 of the Mysore Police Act, 1908; and

(v) section 5 of the Mysore Prevention of Adulteration Act, 1921.

Persons arrested not to be detained unnecessarily.

143. No person arrested under section 141 or section 142 shall be detained in custody—

(*a*) after his true name and address have been ascertained, or

(*b*) for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the Court having jurisdiction to try the case.

Bar of suits and prosecutions in certain cases.

144. (1) No suit, prosecution or other proceeding shall lie, against any local authority or any executive authority of a local authority, or against the Government or any officer or servant of a local authority or of the Government, or against any person appointed under section 13 of this Act, for any act done or purporting to be done under this Act, without the previous sanction of the Government.

1. Inserted by Act XVI of 1949.
2. Repealed and re-enacted as Mysore Act XXII of 1951.

(2) No local authority or executive authority of a local authority, no officer or servant of any local authority or of the Government and no person appointed under section 13 of this Act, shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Punishment for malicious abuse of powers.

145. Any executive authority of a local authority or any officer or servant of a local authority or of the Government, or any person appointed under section 13 of this Act, who maliciously abuses any powers conferred on him by or under this Act, shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Explanation.—No prosecution shall be instituted under this section without the previous sanction of the Government.

Delegation of powers by Government.

146. The Government may, by notification and subject to any restrictions, limitations and conditions specified therein, authorize any person to exercise any one or more of the powers vested in it by this Act and may in like manner withdraw such authority:

Provided that nothing contained in this section shall apply to any power of the Government to make rules under this Act, or to their powers under sections 2 (2), 2 (3) (b), (9) (2), 128 (1) and 148.

Powers of Act to be cumulative.

147. All powers and duties conferred or imposed by this Act shall be deemed to be in addition to, and not in derogation of, any other powers and duties conferred or imposed by any other enactment, rule, notification or order and, subject to any repeal effected by, or other express provision of this Act, all such powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

Power to remove difficulties.

148. If any difficulty arises in giving effect to the provisions of this Act, the Government, as occasion may require, may, by order, do anything which appears to it necessary for the purpose of removing the difficulty.

(*Schedule I*)

SCHEDULE I.

ORDINARY PENALTIES.

[*See Section* 135 (1).]

Section	Sub-Section or clause	Subject	Fine which may be imposed
25	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in a notice requiring to keep any well, etc., in good repair, to cleanse it, or protect, etc.	Fifty rupees.
27	..	Owner of new dwelling house occupying or permitting its occupation without a supply of wholesome water.	Do
29	(1)	Failure to comply with notice to provide efficient drainage.	Do
30	..	Failure to comply with notice requiring to connect a house drain with an outside drain.	Do
31	..	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land.	One hundred rupees.
32	..	Failure to comply with notice for paying or raising the level of any courtyard, etc.	Fifty rupees.
33	(1)	Unlawful construction of cesspool or construction of cesspool on unapproved site.	Do
	(2)	Failure to comply with notice requiring removal or closure of cesspool.	Do
34	..	Occupying or permitting occupation of new building without drain.	One hundred rupees.
35	..	Letting out sullage or sewage into a street, etc..	Fifty rupees
36	..	Discharging injurious refuse, etc., into a drain..	One hundred rupees.
37	..	Polluting water-course ..	Do
39	..	Constructing or reconstructing a building intended for human habitation without a sanitary convenience.	Fifty rupees.
40	..	Failure to comply with notice regarding provision of sanitary conveniences or latrines.	Do
41	(1)	Failure to construct and maintain latrines in the prescribed manner.	Do
	(2)	Failure to comply with notice regarding removal or improvement of latrines.	Fifty rupees.
	(3)	Causing injury to latrines ..	Do
45	..	Failure to comply with notice to abate nuisance.	Do
47	..	Failure to comply with Magistrate's order prohibiting the use of a house or building.	One hundred rupees.
52	(1)	Depositing filth, rubbish, etc., in streets. ..	Twenty-five rupees.
	(2)	Easing or permitting a member of the family to ease in a street, etc.	Do
	(3)	Failure to cover excreta with earth ..	Five rupees.
57	..	Failure to give information regarding existence of certain infectious diseases.	Do
58	(2)	Failure to comply with notice prohibiting the use of unwholesome water.	One hundred rupees.
60	..	Exposing other persons to infection ..	Twenty-five rupees.

(*Schedule I*)

SCHEDULE I—(*contd.*)

Section	Sub-section or clause	Subject	Fine which may be imposed
61	(*a*)	Infected persons carrying on trade in articles of food.	Fifty rupees.
	(*b*)	Infected persons engaging in other occupations without permit.	Do
65	..	Failure to give information of notified diseases ..	Ten rupees.
68	..	Failure to close lodging houses, etc. ..	One hundred rupees.
69	..	Sending infected clothes to a laundry or depositing infected articles in a receptacle for refuse matter.	Fifty rupees.
70	(1), (2), (3) and (5)	Using or permitting use of public conveyance by an infected person.	Do
71	..	Letting or subletting of infected building without a permit.	Do
72	..	Exposing otherpersons to infection ..	Do
73	(1)	Failure to comply wi h notice forbidding work in infected premises.t	Do
74	..	Use of books from public libraries by infected persons, etc.	Do
75	(1), (2), (4) and (5)	Delay in disposing of dead body of an infected person or allowing others unnecessarily to come into contact with it, etc.	Do
76	..	Failure to comply with order prohibiting assemblages of more than 50 persons.	One hunderd rupees.
77	(2)	Failure to comply with any order or direction issued by the Deputy Commissioner or other officer.	One thousand rupees.
78	(1)	Failure to take steps for the destruction of rats, mice, etc.	Twenty rupees.
78	(2)	Failure to comply with the notice for the destruction of rats, mice, etc.	Fifty rupees.
80	..	Failure to give instructions to the person having venereal disease and failure to furnish the required information.	Twenty rupees.
85	(1)	Failure to comply with notice requiring steps to be taken against breeding of mosquitoes.	Fifty rupees.
87	..	Permitting the deterioration of works relating to prevention of the breeding of mosquitoes.	Two hunderd rupees.
88	(1)	Injuring or destroying anti-mosquito works ..	Five hundred rupees.
93	(*a*)	Construction of factories, workshops, etc., in residential areas.	One thousand rupees.
	(*b*)	Failure of factories, workshops, etc., to comply with restrictions imposed.	Five hundred rupees.
95	..	Illegal erection of building on insanitary ground.	Two hundred rupees.
97	(2) and (3)	Failure to cease to inhabit a dwelling house declared unfit for human habitation or permitting it to be let or occupied as a dwelling house.	Do
99	(*a*)	Failure to maintain a tenement in a habitable condition.	Fifty rupees.
	(*b*)	Causing or permitting a tenement to be overcrowded.	Do

(*Schedule I*)

SCHEDULE I—(*concld*).

Section	Sub-section or clause	Subject	Fine which may be imposed
101	..	Keeping a lodging house or receiving a lodger without registration.	One hundred rupees.
106	(1)	Failure to affix notice ..	Ten rupees,
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house.	One hundred rupees.
108	(1)	Selling, etc., unsound meat or food	Do
109	..	Selling, etc., unsound meat or food through others.	Do
110	..	Consuming the flesh of any animal which has died of natural causes.	Do
111	(1)	Unlawfully importing meat from outside the local area.	One hundred rupees.
113	(2)	Infected person carrying on trade, etc., in articles of food.	Do
114	..	Failure to furnish information regarding the sources of supply of milk or dairy produce.	Fifty rupees.
115	(5)	Failure to comply with the order prohibiting the supply of milk or dairy produce.	Two hundred rupees.
119	..	Failure to inform the proper authority about the date and other particulars regarding fair or festival.	Fifty rupees.
124	..	Failure to comply with notice to close or disinfect source of water-supply	One hundred rupees.
125	(1) and (3)	Accommodating visitors without licence, or infringing conditions of licence.	Fifty rupees.

SCHEDULE II.

(*Schedule II*)

PENALTIES FOR CONTINUING BREACHES.

[*See Section 135 (2)*.]

Section	Sub-section or clause	Subject	Fine which may be imposed
25	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in the notice requiring to keep any well, etc., in good repair, to cleanse it or protect, etc.	Ten rupees.
27	..	Continuing to occupy a dwelling house or to permit its occupation without a supply of wholesome water.	Do
29	(1)	Failure to comply with notice to provide efficient drainage.	Do
30	..	Failure to comply with notice requiring to connect a house drain with an outside drain.	Do
31	..	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land.	Twenty rupees.
32	..	Failure to comply with notice for having or raising the level of any courtyard, etc.	Ten rupees.
33	(2)	Failure to comply with notice requiring removal or closure of cesspool.	Do
35	..	Letting out sullage or sewage into a street, etc.	Do
36	..	Discharging injurious refuse, etc., into a drain	Twenty rupees.
37	..	Polluting watercourse ..	Ten rupees.
39	..	Constructing or re-constructing a building intended for human habitation without a sanitary convenience.	Do
40	..	Failure to comply with notice regarding provision of sanitary conveniences or latrines.	Do
41	(2)	Failure to comply with notice requiring removal or improvement of latrines.	Do
45	..	Failure to comply with notice to abate nuisance.	Do
47	..	Failure to comply with Magistrate's order prohibiting the use of a house or building.	Twenty rupees.
58	(2)	Failure to comply with notice prohibiting the use of unwholesome water.	Do
60	..	Exposing other persons to infection ..	Five rupees.
61	(*a*)	Infected persons carrying on trade in articles of food.	Ten rupees.
	(*b*)	Infected persons engaging in other occupations without permit.	Do
	..	Failure to close lodging houses, etc. ..	Twenty rupees.
	..	Exposing other persons to infection ..	Ten rupees.
73	(1)	Failure to comply with notice forbidding work in infected premises.	Do
77	(2)	Failure to comply with any order or direction issued by the Deputy Commissioner or other officer.	One hundred rupees.
78	(1)	Failure to take steps for the destruction of rats, mice, etc.	Five rupees.
	(2)	Failure to comply with notice for the destruction of rats, mice, etc.	Do

(*Schedule II*)

SCHEDULE II—(*concld.*)

Section	Sub-section or clause	Subject	Fine which may be imposed
85	(1)	Failure to comply with notice requiring steps to be taken against the breeding of mosquitoes	Ten rupees.
93	(*a*)	Construction of factories, workshops, etc., in residential areas.	Two hundred rupees.
	(*b*)	Failure of factories, workshops, etc., to comply with restrictions imposed.	One hundred rupees.
97	(2) and (3)	Failure to cease to inhabit a dwelling house declared unfit for human habitation or permitting it to be let or occupied as a dwelling house.	Fifty rupees.
99	(*a*)	Failure to maintain a tenement in a habitable condition.	Twenty rupees.
	(*b*)	Causing or permitting a tenement to be overcrowded.	Do
101	..	Keeping a lodging house or receiving a lodger without registration.	Fifty rupees.
106	(1)	Failure to affix notice ..	Five rupees.
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house.	Fifty rupees.
108	(1)	Selling, etc., unsound meat or food ..	Twenty rupees.
109	..	Selling, etc., unsound meat or food through others.	Do
113	(2)	Infected person carrying on trade, etc., in articles of food.	Do
115	(5)	Failure to comply with the order prohibiting the supply of milk or dairy produce.	Fifty rupees.
124	..	Failure to comply with notice to close or disinfect source of water-supply.	Twenty-five rupees.
125	(1) and (3)	Accommodating visitors without licence or infringing conditions of licence.	Twenty rupees.

MYSORE ACT No. XXVI OF 1944.

THE MILITARY STORES (UNLAWFUL POSSESSION) ACT, 1944.

(Received the assent of His Highness the Maharaja on the 5th day of August 1944.)

An Act to make special provision for the punishment of the Offence of unlawful possession of Military Stores.

WHEREAS it is expedient to provide for the punishment of the offence of unlawful possession of Military Stores;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Military Stores (Unlawful Possession) Act, 1944.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Definition.

2. In this Act, " Military Stores " includes any article intended for use in the equipment of or for supply to the naval, military or air forces of His Majesty the King-Emperor or of any foreign Power allied with His Majesty the King-Emperor, or of His Highness the Maharaja.

Unlawful possession of military stores.

3. Whoever is found or is proved to have been in possession of any article of military stores shall, if the Court sees reasonable grounds for believing such article to be or to have been the property of His Majesty the King-Emperor or of a foreign Power allied with His Majesty, or of His Highness the Maharaja, as the case may be, unless he proves that the article came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Repeal and Savings.

4. The Military Stores (Unlawful possession) (Emergency) Act, 1943, (LV of 1943), continued by the Military

1. See the Mysore Adaptation of Laws Order, 1958.

Stores (Unlawful possession) (Emergency continuance) Act, 1944 (XIX of 1944) is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act had commenced on the 23rd day of November 1943.

MYSORE ACT No. XXIX OF 1944.

THE MYSORE FACTORIES (CONTROL OF DISMANTLING) ACT, 1944.

(*Received the assent of His Highness the Maharaja on the 10th day of August* 1944.)

An Act to control the dismantling of factories.

WHEREAS it is expedient to control the dismantling of factories ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Factories (Control of Dismantling) Act, 1944.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) 'to dismantle' a factory means to remove from the position the machinery or part of the machinery of the factory, where by such removal the factory is rendered wholly or partly useless for its purpose ; but does not include any temporary removal of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs ;

(*b*) 'factory' means a factory as defined in clause (*i*) of section 2 of the Mysore Factories Act, 1936 (I of 1936) but includes also any premises which were at any time after the commencement of this Act a factory as so defined ;

(*c*) 'machinery' has the meaning assigned to that word in clause (*k*) of section 2 of the Mysore Factories Act, 1936 (I of 1936).

Dismantling a factory.

3. (1) No person shall, without the written permission of the Government or of an officer authorised in this behalf

1. See the Mysore Adaptation of Laws Order, 1953.

by the Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment which may extend to two years or with fine or with both.

Offences by corporations.

4. If the person contravenes any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Powers of entry, examination, taking evidence, etc.

5. (1) Subject to any rules made by the Government, any officer authorised in this behalf by the Government, may, if he has reason to believe that any person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is authorised—

(*a*) enter with such assistants (if any), being persons in the service of the Government as he thinks fit, any place ;

(*b*) make such examination of the place and of any machinery, books or documents therein and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act ; and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

(2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or document in his custody or to comply with any demand for information, or knowingly or recklessly makes to such officer a statement false in a material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Cognizance of offences.

6. No prosecution of an offence under this Act, shall be instituted except by or with the previous sanction of the Government or the officer authorised by the Government for the purposes of sub-section (1) of section 3.

Bar of legal proceedings.

7. No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

8. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

(*a*) for the procedure for the grant of the permission referred to in sub-section (1) of section 3 ;

(*b*) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such hefusal is by an officer authorised in pursuance of that section ; and

(*c*) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

Repeal and savings.

9. The Mysore Factories (Control of Dismantling) (Emergency) Act, 1944 (XIII of 1944), is hereby repealed. But any rules made, anything done, and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act had commenced on the 21st day of March 1944.

MYSORE ACT No. XXXIII OF 1944.

An Act for the Prohibition of Beggary, 1944.

(*Received the assent of His Highness the Maharaja on the 13th day of August* 1944.)

WHEREAS it is necessary and expedient to prohibit persons from resorting to begging as a means of livelihood and to make provision for the relief of such persons; it is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Act for the Prohibition of Beggary, 1944. Short Title.

(2) This section shall come into force at once and the Government may, by notification in the official Gazette, apply all or any of the remaining provisions of this Act to the whole or any part of [1][the State of Mysore except Bellary District] from such date as may be specified in the notification: Extent and Commencement.

Provided that no such provisions of this Act shall be so applied unless the Government is satisfied that suitable facilities exist or can be made available by the Central Relief Committee for the relief of the beggars of that area.

CHAPTER II.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "Alms" means anything given gratuitously to a beggar, such as money, food—cooked or uncooked—grain or clothing, or any other thing value; Alms.

(2) "Beggar (with its grammatical variations)" means any person who makes his living by soliciting alms, Beggar.

1. See the Mysore Adaptation of Laws Order, 1958.

impliedly or explicitly, in any public place or a place to which the public resort and includes—

(i) any person who solicits alms wandering from door to door ;

(ii) any person who exposes or exhibits any sores, wounds or bodily ailments or deformities or makes false and fraudulent pretences or does any other act with the object of exciting pity for securing alms ;

(iii) a religious mendicant who asks for alms in any public place or a place to which the public resort so as to be a nuisance :

Provided that—

A person shall not be deemed to be a beggar if he—

(i) is a religious mendicant licensed by the Central Relief Committee to solicit alms in the prescribed manner ; or

(ii) in performance of any religious vow o robligation as sanctioned by custom or religion collects alms in a private or public place, without being a nuisance ; or

(iii) is permitted in writing by the Central Relief Committee to collect contributions in cash or kind from the public for any public institution, whether religious or secular or for the furtherance of any object for the good of the public ;

(iv) is a student collecting alms for the prosecution of his studies ;

Child. (3) " Child " means a person under the age of twelve years.

Central Relief Committee. (4) " Central Relief Committee " means the Committee constituted by the Government under this Act ;

Foreigner. (5) " Foreigner " shall denote a person who is not a natural born subject of His Highness the Maharaja or who has not acquired domicile in the State by residence therein for not less than five years immediately preceding the date when the question of his status arises, coupled with the intention to reside thereon permanently ;

(6) "Indoor Relief" includes relief given in any Institution under the Act; Indoor Relief.

(7) "Institution" includes a Receiving or Relief centre, colony, settlement area or any other institution declared to be such by the Government; Institution.

(8) "Local Area" means an area declared as such by the Government, from time to time, for the purposes of this Act by a notification in the official Gazette: Local Area.

(9) "Local Committee" means the Committee appointed by the Central Relief Committee for any local area; Local Committee.

(10) "Magistrate" means a Magistrate not below the rank of Second Class; Magistrate.

(11) "Nuisance" means any act or omission by which annoyance, injury or danger is caused or is likely to be caused to any person or to the public; Nuisance.

(12) "Offence" means an act or omission prohibited or made punishable under this Act. Offence.

(13) "Outdoor Relief" includes relief in cash or kind, or both; Outdoor Relief.

(14) "Prescribed" means prescribed by rules under this Act. Prescribed.

CHAPTER III.

3. No person shall beg in the areas notified under Section 1 of the Act. Begging prohibited.

4. The reliif to be given under this Act shall be Indoor relief but the Government may, on the recommendation of the Central Relief Committee, permit the grant of Outdoor relief. Relief.

CHAPTER IV.

CONSTITUTION AND ADMINISTRATION.

5. (1) The Government may by notification in the official Gazette, constitute a Central Relief Committee. Central Committee.

Composition of the Central Committee.

(2) The Committee shall consist of such number of members as may be prescribed.

Chairman and Secretary.

(3) The Government may appoint one of the members of the Committee as its Chairman and appoint a Secretary who may or may not be a member of the Committee.

Term.

(4) The Chairman and the members of the Committee shall hold office for such period as the Government may by notification in the official Gazette direct in this behalf.

Vacancies.

(5) (*a*) Casual or other vacancies in the Committee shall be filled up by the Government in the prescribed manner.

(*b*) During any vacancy in the Committee, the continuing members may act as if no vacancy had occurred.

Administration to vest in the Central Relief Committee.

(6) Subject to the provisions of this Act and the rules made thereunder, the supervision, direction, and control, of all matters relating to the administration of relief shall vest in the Committee.

Local committees.

6. The Committee, may for the purposes of carrying out the provisions of this Act in any local area constitute as prescribed, a local committee.

Local administration.

7. (1) Subject to the control of the Central Relief Committee and the rules made in this behalf, the administration of relief to the beggars in any local area shall be vested in the local Committee.

(2) For the purpose of carrying out the provisions of this Act in any part of a local area, the local committee may constitute sub-committees as prescribed.

CHAPTER V.

INSTITUTIONS.

Receiving Centres.

8. The Central Relief Committee may provide Receiving Centres for the reception and temporary retention of beggars or it may declare by notification in the official Gazette any institution to be a Receiving Centre for the purposes of this Act.

(*Chapter VI—Procedure and Punishments*)

Relief Centres.

9. The Central Relief Committee may establish institutions, in such places as may be deemed necessary for the relief of beggars sent thereto or may in the manner prescribed in Section 8, declare any existing institution as a Relief Centre.

Management of Centres.

10. (*a*) Subject to the provisions of this Act, the Central Relief Committee shall make provision for the proper management of institutions and for the care of the inmates therein.

Discipline in Centres.

(*b*) Every person retained in any of the institutions shall be subject to such rules of discipline as may be prescribed.

Explanation.—"Discipline" includes the enforcement of manual labour and hard labour.

Enforcement of Discipline.

11. The Central Relief Committee may authorise the person-in-charge of any institution to enforce discipline in such institution in the manner prescribed.

CHAPTER VI.

Procedure and Punishments.

Beggar who persists to beg to be arrested and sent to the Receiving Centre.

12. (1) Any police officer or such other officer as may be authorised in this behalf, who finds any person contravening the provisions of Section 3, shall, arrest and remove him immediately to the nearest Receiving Centre;

Enquiry at the Receiving Centre. Officer may release him with or without surety;

(2) The person-in-charge of the Receiving Centre shall thereupon without delay hold such enquiry as he deems necessary and if satisfied that the person, if released, will not resort to begging, shall release him forthwith, with or without surety; and if not so satisfied shall produce him before the nearest Magistrate having jurisdiction. The Magistrate shall thereupon hold an enquiry and if satisfied that such person has committed the offence but promises not o contravene the provisions of Section 3, shall release him after obtaining the prescribed bond;

or send the beggar to the Magistrate, who may release the beggar on Bond.

(3) If the person so released is again produced before the Magistrate for a similar offence, he shall, if it is proved against him, not be released without a surety.

Magistrate to send beggar to the Receiving Centre.

13. (i) If the person against whom action has been taken under Section 12 is again produced before the Magistrate, for a similar offence or when such person does not or is unable to comply with the directions contained in the said section, the Magistrate shall, on enquiry, make an order declaring such person to be a beggar and direct that he be detained in the nearest Receiving Centre.

Maintenance to be recovered from the beggar or his relative.

(ii) If in the course of the enquiry by the Magistrate under sub-section (1), it is found that the beggar has any property in his own right or is entitled to a share in any property, or has relatives who are legally bound to maintain him and who wilfully neglect to maintain him, the Magistrate may, while making the declaratory order, direct that the cost of maintaining the said beggar or such amount as specified by him be recovered as fine from the property of the beggar or the person or persons responsible for his maintenance.

How person in-charge of Receiving Centre to deal with the beggar so sent.

14. Any person so sent to the Receiving Center shall thereafter be removed to such Institution as is declared by the person-in-charge of the Rceeiving Centre, to be suitable to him.

Infirm and decrepit beggars and incurables to be arrested and sent to Receiving Centres.

15. (i) Any Police Officer or such other officer as may be authorised in this behalf, who finds in any public place, or any place to which the public resort, any beggar who is infirm, disabled, decrepit, or suffering from any loathsome or incurable disease, shall arrest that person and remove him without delay to the Receiving Centre.

Person-in-charge of the Receiving Centre to remove such beggars to the Magistrate to obtain declaration.

(ii) The person-in-charge of the Receiving Centre shall thereafter hold an enquiry and ascertain from that person, if he has any relatives and if there are any, the officer shall immediately send for them and if on enquiry it is found that the beggar cannot be taken care of, or if there are no relatives, the person-in-charge of the Receiving Centre shall, with his report of enquiry, immediately produce him before the Magistrate, who after enquiry shall declare that person to be a beggar and order him to be taken at once to the Receiving Centre.

To be sent to the institution kept for them.

(iii) The person-in-charge of the Receiving Centre shall thereafter send such person to one of the institutions kept for that purpose.

(*Chapter VI—Procedure and Punishments*)

Child beggars to be sent to the Receiving Centres under a Declaration by the Magistrate.

16. (1) If a person arrested under the provisions of this Act is, in the opinion of the officer arresting him, below the age of twelve years, he shall without delay be removed to the Receiving Centre, whereupon the person-in-charge of the Receiving Centre shall, after preliminary enquiry, place him before the Magistrate having jurisdiction and, the Magistrate shall thereupon hold an enquiry and if satisfied that such person —

(*a*) has no home or settled place of abode or means of subsistence or has no parent or guardian, or has a parent or guardian who does not exercise a proper wardship ; or

(*b*) is destitute and both his parents or his surviving parent, or in the case of an illegitimate child, his mother, are or is undergoing imprisonment ; or

(*c*) is under the care of a parent or guardian who by reason of criminal or drunken habits is unfit to exercise proper care ;

shall declare the person to be a beggar and send him to the Receiving Centre :

Provided that if such a person has a parent or a proper guardian, the Magistrate shall call upon that parent or guardian to execute a bond and stand surety for that person not committing an act contrary to the provisions of Section 3 and thereafter release hm, but if the parent or guardian refuses to execute a bond or stand surety or he himself is a beggar, and no other relative comes forward to take care of the person, he shall be sent to the Receiving Centre with a declaration as provided above.

Maintenance of the child to be recovered from parent or guardian.

(2) If as a result of the enquiry, the Magistrate is of opinion that the parent or guardian being competent to maintain the child, has wilfully neglected to do so, he may in his order committing such child to the Receiving Centre, direct that such amount as he may deem necessary for the maintenance of the child be recovered by way of fine from such parent or guardian.

Manner in which person-in-charge of the Receiving Centre to deal with the child.

(3) The person-in-charge of the Receiving Centre shall thereupon send the child to such Institution as may be best suited for him.

Beggar to leave relief centre on discharge or permission.

17. No person who is admitted to any institution shall leave it without an order of discharge or without the written permission of the person-in-charge of the Institution.

Absconding beggars—how to be dealt with.

18. (1) On a report from the person-in-charge of any Institution that a person has left such institution in contravention of the provisions of Section 17, any Police Officer or any officer authorised in this behalf shall arrest him without a warrant and produce him before the nearest Magistrate and the Magistrate shall, after satisfying himself that the said person did commit the act complained of, order him to be delivered to the institution, with a warning.

Imprisonment.

(2) Any person dealt with under the provisions of sub-section (1), who absconds or takes to begging after he is discharged under Section 17 shall be placed before a Magistrate, who after summary trial may convict him and sentence him to imprisonment for a period not exceeding three months.

Abettors—punished with imprisonment or fine or both.

19. Whoever employs any person to ask for alms, or abets such employment, or whoever having the custody, charge or care of a child, abets or encourages such employment shall be punished on conviction before a Magistrate with simple or rigorous imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or both.

Refusal of a Beggar to go to a Beggar Relief Institution or to a Magistrate punishable with imprisonment, or fine or both.

20. Any beggar refusing or failing to accompany a Police Officer or any officer authorised in this behalf to appear before a Magistrate or to be taken to an Institution when required, under this Act, shall be punished on conviction by a Magistrate, with simple imprisonment for a term which may extend to one month or with fine or both.

CHAPTER VII.

MISCELLANEOUS.

Begging a cognizable offence.

21. All offences under this Act shall be cognizable offences as defined in the Criminal Procedure Code.

22. (1) Where a Magistrate, before whom a beggar is produced under sections 12, 13 or 15, is satisfied that the beggar is a foreigner, he may order the beggar to remove himself from Mysore State and may cause him to be removed from Mysore State in such manner as may be prescribed.

(2) If any beggar ordered to remove himself from Mysore State or caused to be removed therefrom wilfully returns thereto he shall be punishable with imprisonment which may extend to three months, and after the completion of his term of imprisonment, shall be liable to be removed from Mysore State in the prescribed manner.

23. Fines recovered under this Act shall be credited to the Central Relief Fund. Fines.

24. Subject to the rules made in this behalf the Central Relief Committee or any local committee shall have power to acquire property, enter into contracts, institute and defend legal proceedings and do all other acts incidental thereto. Power to acquire property, etc.

25. The Central Relief Committee or the local committee with the previous sanction of the Central Relief Committee may appoint officers for the purpose of the Act in accordance with the rules prescribed in that behalf. Appointment or officers.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done or intended to be done in good faith under this Act. Protection of officers.

27. Every person empowered to perform any function under the Act, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code as in force in Mysore. Public servant.

28. In order to carry out the purposes of this Act, a fund called the Central Relief Fund shall be formed. This Fund shall consist of— Central Relief Fund.

(i) subscriptions and donations ;

(ii) grants from the Government ;

(iii) grants from Local Bodies, and other private or public institutions ;

(iv) fines recovered under this Act ;

(v) receipts from other surces.

Taxation.

29. If the Central Relief Fund is found to be insufficient for the adequate grant of relief to beggars under this Act, the Government may levy a cess not exceeding six pies per rupee on all items of State Revenue, other than revenue derived as tax or cess on land or buildings.

Board of Visitors.

30. The Government may, as per rules made in this behalf, appoint a Board of Visitors in local areas to inspect, from time to time, the Institutions situated therein, and to report on the working of these institutions, to the Government and offer such suggestions as they deem fit for the improvement of the said institutions.

31. Notwithstanding anything to the contrary in the Code of Criminal Procedure, 1904, any person aggrieved by any decision of a Magistrate under this Act, may apply to the Court of Session having jurisdiction in the prescribed manner and within the prescribed time for revision of such decision and the Court in so doing may examine the legality or propriety of the proceedings before the Magistrate. The decision of the Court shall be final.

Appeal.

32. (1) If any inmate of an institution is aggreived by any order passed by any person-in-charge of the Institution, he may appeal against that order to the Chairman of the Local Committee.

Appeal. Board's decision final.

(2) The decision of the Chairman of the Local Committee may be taken up in second appeal to the Board of Appeal constituted as prescribed by the Relief Committee from amongst its members, and the order of that Board shall be final.

Charge for Misconduct.

33. The Government may on the report of an Auditor who may be appointed by the Government to audit the accounts of the Central Relief Fund pass an order charging any person responsible for causing any loss through misconduct or negligence, after obtaining his explanation

and shall in every such case certify the amount due from such person, and upon the application of the Central Relief Committee the Revenue Authorities shall recover the said amount from such person as if it were an arrear of land revenue and credit to the Central Relief Fund.

Publication of Annual accounts.

34. The annual accounts of receipts and expenditure, and the budget when sanctioned shall be open to public inspection and shall be published in such manner as the Government may prescribe.

Administration Report.

35. (1) As soon as may be after the 1st of July every year, and not later than such date as may be fixed by the Government, the Central Relief Committee shall submit to the Government an administration report for the preceding official year in such manner and with such details as the Government may direct.

(2) Each Local Committee shall, as soon as may be after the 1st July of each year and not later than such date as may be fixed by the Central Relief Committee, submit to the Central Relief Committee an administration report for the preceding official year in such manner and in such form as may be fixed by the Central Relief Committee.

(3) The report shall be published in such manner as the Government may direct.

CHAPTER VIII.

CONTROL.

Powers of Government.

36. The Government or any officer authorised by the Government by a general or special order shall have power—

Inspection of Institutions.

(*a*) to enter and inspect any institution under the control or management of the Central Relief Committee or inspect any work in progress under it or under its direction ;

Calling for any record.

(*b*) to call for any extract from the proceedings of the Central Relief Committee or of any Committee under its control and direction and any return, statement, account or report which the Central Relief Committee may be required to furnish ;

Rectification of orders.

(*c*) to inspect the office of the Central Relief Committee or any office under its control and direction, and call for the records of any such office, and the officer authorized shall submit the records for the orders of Government if he is satisfied that the order or proceeding of the Central Relief Committee or the Local Committee is contrary to law or orders for the time being in force.

Disputes.

37. (1) If any dispute arises between the Central Relief Committee and Local Committees or local bodies in any matters arising under the provisions of this Act and the dispute is not amicably settled, the matter shall be reported to the Government who may take cognizance of the dispute and decide it and the decision of the Government shall be final.

Bar to Civil proceedings.

(2) No suit shall be entertained by a Civil Court in respect of any dispute referred to in sub-section (1).

Rules and Orders.

38. (1) The Government may make rules or orders generally for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules for—

Licensing of religious mendicants.

(*a*) the manner in which religious mendicants may be licensed ;

Constitution of Committee.

(*b*) the constitution of the Committee and institutions and their powers, duties and functions ;

(*c*) matters provided in Section 29 ;

Board of Visitors.

(*d*) the constitution of the Board of Visitors, its powers, duties and functions ;

Submission of records.

(*e*) the submission of returns and statements and reports and the preparation and submission of annual receipts and expenditure and the annual administration report by the Central Relief Committee and the Local Committees ;

Audit.

(*f*) the auditing of accounts ;

(*g*) the constitution of a Board of Appeal, its powers duties and functions ; Board of Appeal.

(*h*) the transfer of beggars from one institution to another ; and Transfer of Beggars.

(*i*) prescribing the form of bonds required to be taken under the provisions of this Act. Form of bonds.

(3) The power of the Government to make rules under this Act shall be subject to the condition of previous publication. Publication.

(4) All rules made by the Government under this Act shall be published in the official Gazette, both in English and Kannada, and shall thereupon have effect as if enacted under this Act.

39. If any provision of any other enactment in force in Mysore is repugnant to any provision contained in this Act, the latter provision shall prevail.

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